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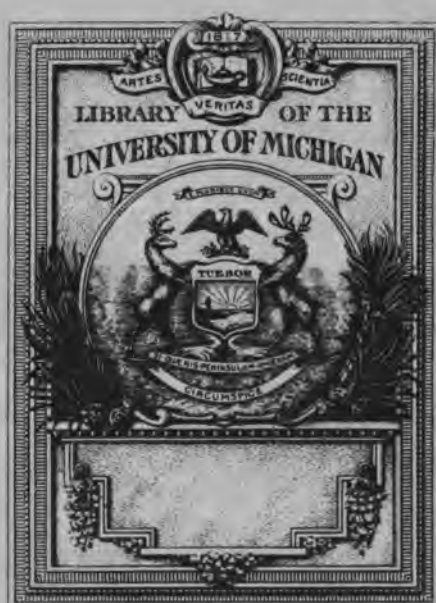
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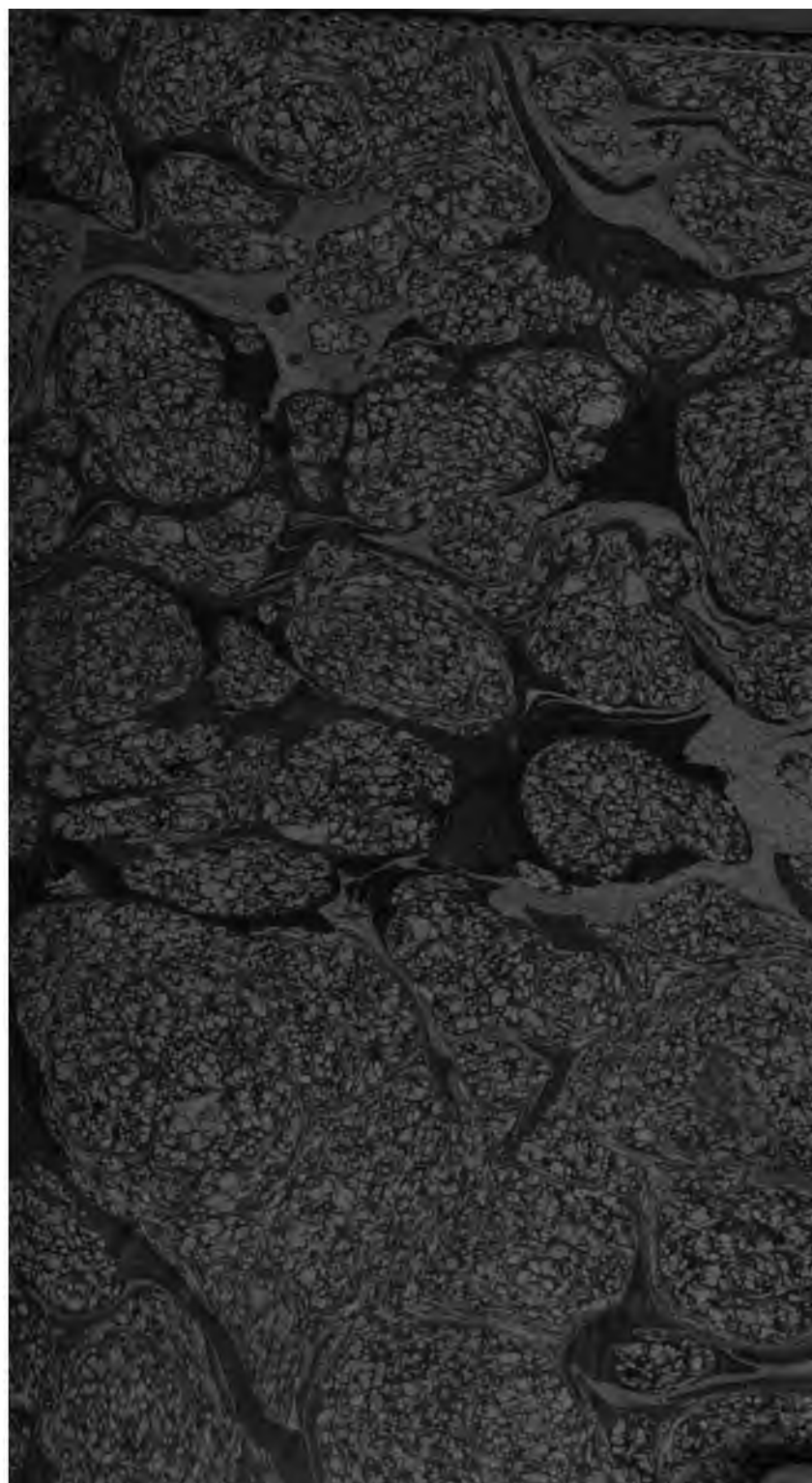
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M<sup>rs</sup> Childers

The Gift of her Affectionate  
Daughter

Selena Child

THE  
P R I N C I P L E S  
OF  
MORAL AND POLITICAL PHILOSOPHY  
INVESTIGATED.



THE  
P R I N C I P L E S  
O F  
*M O R A L P H I L O S O P H Y*  
INVESTIGATED,  
AND APPLIED TO THE CONSTITUTION OF  
CIVIL SOCIETY.

---

By THOMAS GISBORNE, M. A.

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THE FOURTH EDITION, CORRECTED AND ENLARGED:  
TO WHICH IS ADDED,  
A New Edition, being the Fifth, with an APPENDIX,  
O F  
REMARKS ON THE LATE DECISION OF THE  
HOUSE OF COMMONS  
RESPECTING  
*THE ABOLITION OF THE SLAVE TRADE.*

---

L O N D O N:  
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1798.

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TO THE  
M E M B E R S  
OF THE  
UNIVERSITY OF CAMBRIDGE,  
THE  
FOLLOWING TREATISE  
IS RESPECTFULLY DEDICATED.





## ADVERTISEMENT.

It has been thought advisable to make, in the present Edition, some alterations in the mode of arrangement of certain parts of this Treatise, yet without any change in the general train of reasoning and sentiment. Several additional Chapters, relating to subjects noticed slightly, or not at all, in the former Editions, have likewise been introduced.

It would be an act of injustice in the Author to omit his original acknowledgement how materially he has been indebted, in many of the subsequent discussions, to the important observations suggested by his excellent friend, Mr. Babington, of Rothley Temple.

YOXALL LODGE,  
June 12, 1798.



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THE



THE  
PRINCIPLES  
OF  
MORAL PHILOSOPHY  
*INVESTIGATED.*

---

CHAP. I.

THE NATURE OF MORALITY AND MORAL  
PHILOSOPHY EXPLAINED.

**T**HE dispositions which Religion inculcates, together with the actions which it enjoins, may be arranged under two heads, Piety and Morality. Piety comprehends those dispositions and actions of which the Supreme Being is the immediate object: Morality, those of which other beings are the immediate objects.

In

In popular language the term Piety is occasionally used in an extended meaning, to denote some moral duty, the breach of which is accompanied with more than ordinary guilt. Thus the reverential love owing to parents has been denominated filial piety ; and the affection due between brothers and sisters, fraternal piety.

The same duty may be at one time an act of piety, at another an act of morality, accordingly as it respects the Deity, or some other being. Thus gratitude, when exercised towards God, is an act of piety ; when exercised (and, as in the former case, on religious principles) towards a human benefactor, an act of morality. Other examples of the same nature might be produced.

The preceding statement, however brief, is sufficient to evince the close and inseparable connection, which subsists between Morality and Religion. It is also sufficient to demonstrate, that much of what is termed,



termed, in the language of the world, Morality, ought properly to receive a different appellation. Moral rectitude consists not in the action, but in the motive from which the action flows. Every part of the Scriptures proclaims, that the eye of God is directed to the heart. Suppose a man uniformly to abstain from dishonesty. If he abstains through policy, or through the fear of shame or of punishment, he has no claim to the character of a moral man. Actions, to be moral, must ultimately flow from religion; from an earnest, affectionate, and habitual desire of pleasing God. The connection of real morality with religion is the connection of a limb with the body, of a part with the whole. What God has thus joined together, let not man put asunder. The attempt, however, to separate them has been by no means unfrequent. Heretofore it might almost have been inferred, from treatises on morals composed by professed believers in Christianity, that it was the main purpose of the authors to prove themselves capable of

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extracting from the stores of Reason a complete code of human duty, without being indebted for a particle of assistance to the revealed Word of God. At present, among writers who give credit to that Word, this fashion is happily exploded. But it is still common to meet with men, and men ostensibly Christians, who are extremely solicitous to maintain the character of morality, without manifesting a corresponding earnestness to support that of piety; and would learn, without much disturbance, that suspicions were entertained respecting their sincerity in the latter point, while the smallest intimation of a doubt as to the former would call forth eager repentment. The cause of this distinction is not difficult to be developed. In the conduct of business, and in the daily intercourse of society between man and man, a defect in piety is not perceived to be immediately productive of those injurious consequences, which instantly arise from an undisguised breach of various moral duties, as of probity and veracity, or even of liberality and compassion. Hence  
may

may be explained not only the superior anxiety of most men respecting their reputation for those qualities, in comparison of piety; but another fact likewise, to the existence of which experience bears continual testimony; namely, that persons, who are altogether devoid of piety, are not unfrequently found to practise some branches of moral duty with tolerable fidelity and decorum. Not that the obedience of such men to the rules of moral obligation is ever known, or perhaps ever designed, to be universal. They are moral, (if, in compliance with custom, we are to call them moral,) chiefly, if not entirely, from motives of interest or of pride: and as far as interest and pride travel in the path of moral obligation, they are not unwilling to follow it. They exhibit, in the ordinary occurrences and transactions of life, a degree of attention to the demands of justice and benevolence, sufficient to satisfy the generality of observers. But let a strong temptation be presented, let interest lay a heavy weight of advantage in one scale, and pride

be dissuaded by the prospect of concealment from placing a counterpoise of shame in the other ; and the event may easily be predicted. In such a case, would a baseless moral sensibility, a feeling of which men of the description now mentioned are often inclined to boast, oppose a successful resistance? No morality will ever be universal, no morality will stand severe trials, but that which is built on the solid foundation of Religion. They who are warmly desirous of pleasing God, and they alone, will " have respect unto *all* his commandments ;" and will be supported by the cheering conviction, that " he knoweth how to deliver the godly out of temptations."

To be able to perform the duties of morality, we must not only have a clear knowledge of them individually, but must also discern their limits and relations. The science that teaches the principles in which moral duties originate, together with the nature, the extent, and the connection of those

those duties, is called Moral Philosophy. Its importance cannot be denied. For its object is to qualify men to understand and practise one of the two branches of religious duty. Neither can our obligation to study it, in proportion to our several capacities and opportunities, be questioned. For who can innocently neglect to furnish himself, as abundantly as may be in his power, with the knowledge of those duties which it is his business, according to the appointment of God, hourly to practise; duties too which will form a leading article in the account, which he is to render at the final day of retribution?

Since moral duties have recently been stated as constituting one branch of religion; it may naturally be thought that the records of religion are the sources, whence all our knowledge of morality is to be derived. That the instruction which the Scriptures afford, whether concerning the general nature of morality, or more particularly concerning individual duties, ought

be considered as possessing a pre-eminence to which no conclusions drawn from reasonings merely human can approach, is a truth which a Christian cannot seriously doubt. Yet Holy Writ is not the only source, neither could it have reasonably been expected to be the only source, from which morality is to be deduced. The Scriptures speak to men as already not uninformed respecting the principles of moral obligation, and the import of moral duties. They presuppose that the general nature of justice, and temperance, and benevolence, and other virtues, is understood. And though, from a comparison of the many practical injunctions and illustrations to be found in the Bible respecting these virtues, much additional light is thrown upon each of them; yet systematic definitions of them would there be sought in vain. Much less do the Scriptures enter into a minute detail of the extent and bearings of any moral duty, of the various cases in which it is to be exercised, of the limits within which it is to be circumscribed, of the

- the occasions when it is to give place in a greater or a less degree to the cotemporary claims of some other duty. Detached hints on such points occasionally present themselves. But the customary language of the Scriptures is general. When they speak of any virtue, they authoritatively enjoin it in few and simple words; and at the same time frequently clothe the command in such expressions, as point out the duty of examining diligently into all the particulars, by the knowledge of which men may be better qualified to obey the spirit of it. Thus men are directed to “*follow* righteousness” (a), “and charity” (b); to “*seek* peace, and *pursue* it” (c); to “*strive* to enter in at the strait gate” (d); to “*study* to be quiet, and to show themselves approved unto God” (e).

(a) 1 Tim. vi. 11.

(b) 1 Cor. xiv. 1. — See also Ps. xxxviii. 20. — Is. li. 1. — Rom. xiv. 19. — and various other passages.

(c) Ps. xxxiv. 14. — 1 Pet. iii. 11.

(d) Luke, xiii. 24.

(e) 1 Thess. iv. 11. — 2 Tim. ii. 15.

Two reasons may evince the wisdom of the plan thus pursued in the sacred writings. In the first place, had the Scriptures been loaded with precepts framed to solve, without farther inquiry, the innumerable moral doubts and difficulties, which would be experienced by different individuals in passing through life ; each of which too in different individuals, and in the same individual at different times, would be modified or complicated according to the temporary circumstances of the particular case ; they must have been enlarged to a size which would have rendered them altogether unadapted to general use. They might have been occasionally consulted as law-books. But they would have ceased to be the Christian's daily manual of faith and practice. In the next place, they would have been far less suited than they now are to promote what appears to be the general purpose of the Almighty in his dealings with mankind in their present state of existence, namely, human probation. To make our choice between the performance  
and



and the disregard of known duty is not the only mode of trial to which we are subjected. To choose whether we will diligently exert our faculties in learning and ascertaining our various duties, or supinely give ourselves no concern on the subject, is a mode of trial which can as little be avoided. For the sake of leaving scope for the exercise of virtue in the latter branch of probation, whatever other wise ends may at the same time have been held in view, the Scriptures, it may be concluded, have abstained from entering into a more copious detail on each separate division of morality. And for the same purpose apparently it is ordered, that in moral investigations much close research and conscientious reflection should be requisite; and that, notwithstanding the united aid of the Scriptures and of reason, it should sometimes be in a high degree difficult to distinguish the precise line of duty in private conduct.

Practical

Practical errors in morality may proceed either from a wrong application of principles which are just, or from the reception of those which are false. Of the different false principles which have been recommended as standards of morality, I know two only, which, in this country, retain much influence over the actions of individuals. Those are, general expediency and honour. They may properly receive distinct and immediate consideration. The removal of error naturally tends to facilitate the discovery and the establishment of truth.

## CHAP. II.

ON THE PRINCIPLE OF GENERAL EXPEDIENCY  
AS THE STANDARD OF MORALITY.

UTILITY, or, as the same principle is otherwise denominated, general expediency, after having been introduced to notice by Mr. Hume as the rule of moral duty, has recently been adopted under an improved form by Dr. Paley. These eminent writers, though agreeing in sentiment as to the application of the principle itself, differ essentially both with respect to the source from which they derive that principle, and the sanctions on which they ground the obligation of conforming to it. The former represents it as *suggested by nature*; and has no inducements to offer in its behalf beyond *the present consequences of adopting or disregarding it*. Dr. Paley considers it as *flowing from the will of God*; and as *enforced by the certain prospect of rewards and punishments in a future life*. How

small is the effect to be expected from a *suggestion of nature* sanctioned by mere temporal motives, when opposed to the selfishness and passions of men, will be best understood by those who are the most conscious how frequently a decided belief of the impending glories and terrors of another world fails to secure obedience to the laws of the Gospel. The acknowledged abilities, however, of Mr. Hume, concurring with other favourable circumstances, have obtained to his principle many partisans even among those whose opinions concerning religion differ widely from his own. The talents of Dr. Paley, the excellence of various parts of his moral writings, and the justice of many of his conclusions, together with the reputation deservedly acquired by works of superior merit on a subject of still higher importance (*f*), afford

(*f*) On the Truth of the Christian Religion. Dr. Paley's *Horæ Paulinæ* possesses the combined merits of originality, acuteness, and sound reasoning, in a degree seldom equalled. His *View of the Evidences of Christianity* is also, with some exceptions, a work of singular excellence and usefulness.

powerful

powerful support to the standard of morality which he upholds. And from his hands Mr. Hume's principle comes forth apparently established on that foundation, and invested with those sanctions which are necessary to gain to it the confidence of Christian inquirers. On these accounts it is proper, that, in examining whether the principle of general expediency has been rightly assumed as the criterion of moral duty, I should consider it under the form in which it is delineated by Dr. Paley.

A brief statement of Dr. Paley's fundamental propositions, and of his mode of applying them, is necessary to be given, antecedently to any investigation concerning their truth.

Dr. Paley states, that (g) all obligation consists in being urged by a violent motive resulting from the command of another ;

(g) Elements of Moral and Political Philosophy, p. 57. vol. i. ed. 6th, 8vo. To this edition all subsequent references are made.

and.

and that moral obligation (*b*) implies the being impelled to perform certain actions, and to abstain from others, by the expectation of future rewards and punishments, resulting from the appointment of God. Hence he infers, that “to (*i*) inquire what “is our duty, or what we are obliged to do, “in any instance, is, in effect, to inquire “what is the will of God in that instance.”

The truth of the Christian religion having been presupposed, Dr. Paley then observes, that “there are two methods of “coming at the will of God on any “point.

“First, By his express declarations, when  
“they are to be had ; and which must  
“be sought for in Scripture.”

“Secondly, By what we can discover of  
“his designs and disposition from his  
“works ; or, as we usually call it, the  
“light of Nature.”

(*b*) Page 59, vol. i.

(*i*) Page 62, vol. i.

On

• On the presumption of the divine benevolence, a presumption which Dr. Paley afterwards confirms from a consideration of the constitution of nature, and which might with much propriety have been shown to be a fundamental principle of Christianity; he concludes, that (l) “the method of coming at the will of God concerning any action, by the light of nature, is to inquire into the tendency of that action to promote or diminish the general happiness.”

Whatever (m) is expedient, he affirms to be right. But in consequence of having shewn (n) the necessity of all moral government being administered according to general rules, he subjoins, “It (o) must be expedient upon the whole, at the long run; in all its effects collateral and remote, as well as in those which are immediate and

(l) Page 70. vol. i.

(m) Page 70. vol. i.

(n) Page 74. vol. i.

(o) Page 78. vol. i.

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“direct; as it is obvious that, in computing  
“consequences, it makes no difference in  
“what way, or at what distance, they  
“ensue.”

Having once established, to his own satisfaction, the principle of general expediency, in the manner which has been stated; he applies it as the sole standard, not of those moral duties only concerning which the Scriptures do not furnish him with sufficient information, but of all moral duties universally, of whatever nature, and however ascertained. “The *criterion* (*p*) of right is “utility. *Whatever* (*q*) is expedient is “right. It is the *utility* of *any* moral rule “*alone* which constitutes the obligation of “it.” And shortly afterwards, describing himself as called upon to prove assassination, robbery, and perjury unlawful, instead of making, or leaving room for, a decisive appeal to Scripture on the subject, he

(*p*) Page 71. vol. i.

(*q*) Page 70. vol. i.

replies,



replies, " These (*r*) actions are not useful ;  
 " and for that reason, *and that alone*, are not  
 " right." He further declares, that *every*  
 moral rule is liable to be superseded in par-  
 ticular cases on the ground of expediency.  
 " Moral Philosophy (*s*) cannot pronounce  
 " that any rule of morality is so rigid as to  
 " bend to no exceptions ; nor, on the other  
 " hand, can she comprise these exceptions  
 " within any previous description. She  
 " confesses that the obligation of every law  
 " depends upon its ultimate utility ; that  
 " this utility having a finite and determin-  
 " ate value, situations may be feigned, and  
 " consequently may possibly arise, in which  
 " the general tendency is outweighed by the  
 " enormity of the particular mischief ;"  
 and of course when ultimate utility, and  
 consequently the will of God, render it  
 as much an act of duty to break the rule,  
 as it is on other occasions to observe it.

(*r*) Page 72. vol. i.(*s*) Page 411. vol. ii.

But who shall judge of the expediency?  
“Every (t) man,” he replies, “for himself.”  
And is there not great danger of a man’s estimating amiss the expediency in a vast variety of cases; and thence acting in a manner directly repugnant to the line of conduct which he ought to have pursued? Dr. Paley, anticipating this objection, endeavours to provide against it; and ventures a bold assertion, that every other system of morality is not less exposed, is perhaps more exposed, than that which he patronises, both to casual and to wilful misapplication. “The (u) danger of error and  
“abuse is no objection to the rule of expediency, because every other rule is liable  
“to the same or greater: and every rule  
“that can be propounded upon the subject  
“ (like all rules which appeal to or bind the  
“conscience) must in the application depend upon private judgement.”

(t) Page 142. vol. ii.

(u) Page 143. vol. ii.

This paragraph, in which the argument is couched in general terms, equally applicable to every case of expediency, contains the language and determination of Dr. Paley in applying his theory to the duty of civil submission or resistance; and it contains what must be his language and determination respecting every other moral duty, as he founds all on the same principle.

Such is Dr. Paley's exposition of his principle of morality. The result of his statement is, that a man is bound to the observance of each moral rule, as long as he thinks such observance generally expedient; that he is permitted, and even obliged in conscience, to disregard any moral rule, whenever in his opinion the violation of it will be attended on the whole with beneficial consequences; and that with respect to *every* moral rule cases may occur, in which expediency will *actually* require the violation to take place.

Now it is evident that the doctrine of general expediency thus explained, which affirms that utility is the sole measure of the rectitude or depravity of every action, and at the same time constitutes the agent the sole judge of that utility, with unlimited latitude of discretion, possesses many popular attractions. It will be cheerfully embraced by those whose indolence desires a rule of conduct easy to be retained, and of universal application; by those whose vague opinions and ill-governed passions are averse to absolute and immutable restraints; and by those who affirm, that a moral agent should, in every case, be permitted to determine for himself, unfettered by any dictates of revelation, what actions will promote on the whole his happiness or misery. Other causes, unconnected with these prejudices and errors, will concur in producing the same effect. The seeming piety of the idea, that the rule to which the conduct of the Almighty is conformable should be the immediate standard of human

human actions, is likely to dazzle well-disposed minds. Persons of the opposite description, who may find it convenient to affect a sense of virtue, will gladly profess a principle which authorises them to depart, at their own discretion, from the most positive rules of morality ; teaches them that *every* unbending precept, however generally received, is founded on false and contracted views of things ; and thus promises them a plausible and never-failing defence for any measures, which they may choose to adopt.

Such is the alluring nature of the general rule under consideration. And many of the inferences which have been derived from it are suited to quiet the alarms of the rigid moralist. In Dr. Paley's treatise many observations and conclusions, bearing such evident marks of truth and justice, are presented to the reader ; that if he does not pause to consider how far they are consistent with the principle from which they are said to flow, and how far they are com-

patible with other parts of the same work, he will be persuaded that the duties, which he has been used to regard as of absolute obligation, continue sacred and indispensable under the rule of general expediency.

I apprehend, however, that the principle of general expediency is not supported by any proof which will stand the test of close examination ; that it is liable, in the hands of man, to such misapplication and perversion, that its general reception would apparently be most unfavourable to human happiness ; that it is totally incompatible with the precepts of Scripture ; and that it never could be designed, nor can possibly be adopted, for the regulation of human conduct.

Each of these positions calls for distinct consideration,

I. The proof alleged in support of the principle of general expediency is radically defective.

Dr.

Dr. Paley, after having shown that the duty of man consists in obeying the will of God, reasons in the following manner: "God (x) Almighty wills and wishes the happiness of his creatures: and consequently those actions which promote that will and wish must be agreeable to him; and the contrary." He infers as a necessary conclusion from these premises, that "the (y) method of coming at the will of God concerning any action by the light of nature is, to inquire into the tendency of that action to promote or diminish the general happiness."

The first step in this reasoning, namely, that "God wills and wishes the happiness of his creatures," if understood in the full latitude of the terms, demands unconditional assent. The Divine Author of the universe is a being of unbounded benevolence. And a desire of promoting happiness, or in other words general expediency,

(x) Paley, p. 65. vol. i. (y) P. 65 and 70. vol. i.

extending

extending to *all* created beings, is an unchangeable motive of his conduct.

The consequence deduced from the foregoing fact, that "those actions which promote that happiness must be agreeable to him, and the contrary," is also strictly true, if actions be considered in the abstract without any reference to the motives of the agent. The Almighty approves or disapproves of actions, viewed in this light, accordingly as they further or impede his plan of universal good.

But the inference drawn from these positions, namely, that "the method of coming at the will of God concerning any action by the light of nature is to inquire into the tendency of that action to promote or diminish the general happiness," is certainly not a regular deduction. There is no necessary connection between the premises and the conclusion. Were the powers of the human intellect unlimited, and capable of deriving knowledge



ledge from *any* specified source, of drawing it forth from *every* secret repository in which it is stored, the conclusion would be just. For, in that case, in order to indicate the method of obtaining knowledge of any kind, nothing more would be requisite than that the storehouse in which it is hidden should be specified. But as human faculties are circumscribed and imperfect, it is not only possible, but very probable, that with respect to various subjects they may not be competent to deduce knowledge from sources, from which, were those faculties more extensive and more powerful, we should have been able to obtain it. If, for example, we were desirous of knowing the will of the Almighty on a particular point, and had learned by some incontestable proof that he had communicated that will to the angels; what should we think of the adviser, who should seriously direct us to consult the angels respecting it? No one can be said to have pointed out the method of acquiring the knowledge either of the will of God, or of  
any

any other subject, unless, after having shown the source from which, abstractedly speaking, it is derivable, he proves, in the next place, that man has faculties enabling him to derive it from that source. Now on the latter head Dr. Paley is totally silent. He mentions an undoubted abstract source of the knowledge of the will of God concerning human actions, namely, their tendency to promote or diminish the general happiness; but makes no attempt to prove that our faculties are such as to enable us to derive this knowledge from the source in question. He contents himself with directing us "to inquire," when he should have proved us able to *discover*. This important chasm in his argument entirely destroys the validity of his conclusion; and leaves his declaration that "an inquiry into the tendency of actions to promote or diminish the general happiness," (or, in other words, the rule of general expediency,) "is the method of coming at the will of God," an assertion unsupported by proof. "What though I admit," some hesitating inquirer

quirer may observe, " that the Almighty  
" wills and wishes the happiness of man-  
" kind: is it therefore a certain and self-  
" evident truth, that in determining by the  
" light of nature the morality of any action,  
" I am to regard nothing but my guesses at  
" its tendency to promote or impede the  
" general happiness? The ablest defender  
" of general expediency tells me that I am  
" to determine it thus, and thus only; and  
" of course means me to understand that I  
" have faculties equal to the office of thus  
" ascertaining it. But my security that he  
" is right with regard to either point is  
" merely his unsupported assertion. Is it  
" certain and self-evident that there is not any  
" one rule of morality which, under certain  
" circumstances, it may not be my absolute  
" duty to violate? The same authority  
" assures me that there is not one; and  
" tells me that it must be so, because the  
" violation of every moral rule may at  
" times be generally expedient. Here  
" again, if I examine into the grounds of  
" his reasoning, I find it resting solely on  
" his

" his former assertion. Is it certain and  
 " self-evident that God may not have  
 " placed within the reach of our faculties  
 " better rules of natural morality, better to  
 " us, because more obvious and more safe,  
 " than the rule of general expediency? I  
 " am told positively from the same autho-  
 " rity, that he has not; and that every  
 " other moral rule is liable to the same or  
 " to greater danger of error and abuse.  
 " But for these facts also, if facts they be,  
 " I have no assurance but a bare assertion."

The subject may be illustrated by apply-  
 ing in another instance the mode of reason-  
 ing advanced in support of general expe-  
 diency.

When St. Paul's cathedral was erected,  
 the architect willed and wished the excel-  
 lence of the edifice. Suppose this position  
 allowed. Consequently those proceedings  
 of the workmen, which should promote  
 that will and wish, must have been agree-  
 able to him; and the contrary. Granted

also. Therefore the method which it was right for the workmen, individually, to pursue, if they were at any time without specific instructions, in order to ascertain his will respecting any proceeding, was to inquire into the tendency of that proceeding to promote or diminish the excellence of the structure. If one of the masons had reasoned in this manner, and had accordingly commenced, at his own discretion, an arch in one place, and formed the rudiments of a dome in another; would he have been able to exculpate himself from the charge of presumption? Would his arguments have been judged logical, and accepted by the architect as a defence of his conduct? Would he have been allowed to be capable of ascertaining the will of Sir Christopher Wren from his own crude ideas of architectural expediency? But further; it has been already shown that general expediency, though seeming at first to assume jurisdiction in those cases only, with respect to which we do not derive precise instructions from Revelation, becomes

comes in its application paramount to the directions, which God has given to us in the Scriptures ; and authorises every man to disobey the most positive divine commands whenever, in his opinion, the observance of them would, on the whole, be inexpedient. Suppose then the mason not only to have commenced an arch and projected a dome without instructions, but to have done this contrary to his instructions ; or to have pulled down an arch or a dome already finished, and making a part of the architect's plan. Suppose him to have continued his defence in the words, *mutatis mutandis*, in which Dr. Paley pursues his reasoning : that his proceedings are to be estimated by their *tendency* : that *whatever* is expedient is right : that it is the utility *alone* of any injunction which constitutes the obligation of it (z) : that every injunction is to be disregarded when utility requires : that with respect to every (a) injunction such cases may occur : and that every (b) man is to

(z) Paley, vol. i. p. 70.

(a) P. 411. vol. ii.

(b) P. 142. vol. ii.

judge

judge of them for himself: that as obedience to the directions which he had received respecting the arch and the dome appeared to him inexpedient, he was at liberty, and even obliged in conscience, to disobey them. Would the workman have been heard with patience? Would his temerity have escaped a prison?

II. The reception of the rule of general expediency would be pernicious to the happiness of mankind.

This position alone, if established, would be sufficient to prove the inadmissibility of the principle in question. For though a strong probability that the adoption of any particular principle as the standard of morality would conduce to the happiness of mankind would not be of itself a proof that the principle ought to be adopted; since God may have already pointed out a different criterion of moral duty in his revealed Word, or by the light of nature: yet if a principle, resting its pretensions on the  
ground

ground of its conduciveness to human happiness, be found on examination subversive of that happiness, it is a *felo de se* ; it is at irreconcilable variance with itself ; it destroys itself by the inferences fairly and necessarily to be deduced from it.

A virtuous moralist, who adopts the principle of general expediency, must maintain that, in certain possible cases, he should deserve not merely pardon, but approbation, from his fellow-creatures, for actions which are usually deemed the blackest crimes. He must maintain that circumstances may arise, which shall entitle him, on scriptural grounds, to the reward of everlasting glory at the judgement-seat of Christ, for rapine, for hypocrisy, for perjuries, for murders, for having betrayed his country, or abjured his God. He must maintain that his private opinion of future contingences is the standard, which alone establishes the meaning of the plainest precepts, and the obligation of the most positive injunctions, of the Gospel.

From



From the statement already given, it is undeniable, that no one of the cases described is too extravagant to be verified by facts, or to be authorised by general expediency. And that principle, even if its defenders had left themselves the liberty of asserting that no crime, such as those which have been mentioned, can ever be generally expedient, would still supply an insuperable objection against itself. For in estimating the consequences which would accrue to human happiness, from its reception, it requires us to take into the account not only those conclusions which are fairly deducible from it, but those also which we may reasonably suppose will actually be inferred, or successfully represented as inferred, from it by a considerable part of mankind. Now, in the first place, it would fully justify a man to his own conscience in the commission of any one, or all, of the enormities which have been mentioned, provided he were *persuaded* of the general utility of his conduct; whether that persuasion were the result of reason, of prejudice,

or of fanaticism. And, in the second place, it surely cannot be doubted that not only fanaticism and prejudice, but that reason herself would continually mislead him who should argue from this principle, when it is considered that the premises, from which his conclusions are to be drawn, are wholly uncertain in their nature, and unlimited in their number; being mere conjectures respecting an endless train of future consequences.

If such would be the necessary fruits of this principle, when applied by the virtuous; what would be its effects in the hands of the wicked? Would it not be made to assume every form under the management of artifice; and to countenance every practice at the beck of passion and interest? And how would it be narrowed and contracted when submitted to the ignorance of the bulk of mankind, so little qualified to discover and appreciate even apparently obvious causes of utility, to foresee the more direct and immediate conse-

consequences of actions, and to comprehend the most simple of the designs of (c) Providence.

In the light in which we are now contemplating the rule of general expediency, particular attention is due to the use likely to be made of it by men in power, supposing them to have adopted it, as their influence over the happiness of others is so extensive and so great. And let it be remembered that although we, by the blessing of Heaven, appear in little danger of experiencing either civil or religious tyranny,

(c) Mr. Hume not only admits these consequences, but has the address to represent them as arguments in favour of his system. Speaking on this subject, he says, (*Essays*, London, 1764, p. 298, note, vol. ii.) "It is wisely ordained by nature, that private connexions should commonly prevail over universal views and considerations:" in other words, that a principal recommendation of the rule of general expediency is the certainty that it will rarely be obeyed. Without concerning myself to inquire whether Mr. Hume has taken the most prudent method of defending his principle, I am glad to avail myself of his authority, in support of the fact, that the rule, if admitted, would, from its very nature, be seldom observed in practice.

other countries are subjected or exposed to both : and that a principle of morality, if just, demands and is entitled to be universally received throughout the world.

The admission then of this rule would be extremely favourable to despotism. The supreme magistrate (whatever be his denomination) is told that there is no such thing as right in opposition to general expediency ; and he is also told that *he* is to judge of that expediency. He can scarcely meet with a principle more likely to mislead himself ; nor need he wish for one more convenient, when he is desirous of imposing upon others. If he be a good man, conscious of the purity of his views, and strongly impressed with a conviction of the blessings which would arise from the success of his plans ; how easily will it vindicate to his own satisfaction any line of conduct which he may wish to pursue ! If he be ambitious and designing, it will never fail to supply him with specious reasoning, with which he may dazzle or blind a large proportion

portion at least of his subjects, and prevent them from opposing with firmness and vigour those schemes against the public liberty, which, either by bold encroachments or by insidious machinations, he is attempting to carry into effect.

Nor would this principle point more directly, or lead more rapidly, to civil than to religious slavery. How often would an upright (*d*) magistrate be persuaded, when the  
matchless

(*d*) Dr. Paley allows (p. 328, vol. ii.) that, if such conclusions as these would follow from his principle, it must be given up. That they do result from it, is a point which appears by no means doubtful. And in fact the reader has seen that it must be given up, if it be probable that such conduct, as these conclusions profess to authorize, would generally, even though erroneously, follow from its reception. Dr. Paley states, in perfect conformity to his principles (p. 329), that it is lawful for the magistrate to interfere in the affairs of religion *whenever* his interference *appears to him* to conduce, by its general tendency, to the public happiness. Will not such an appearance continually present itself to the eye of ignorance, of policy, and of enthusiasm? In the same place, and in the pages immediately preceding and following, Dr. Paley decides on the subject in equal contradiction to those dictates of reason, which require every man to be permitted to worship God quietly in the

matchless benefits of true faith, and the invaluable happiness of everlasting salvation,  
were

way which his conscience prescribes, while he neither infringes the civil nor the religious rights of his neighbour; and to the general tenor of the gospel, which reprobates persecution as being wrong and *unchristian in itself*, and not because in the long run it would prove unsuccessful. He authorises the magistrate to employ any kind of persecution whatever, if persuaded that on the whole persecution is useful in establishing religious faith. And the only security which he affords to the subject against persecution is his declaration to the magistrate, that if generally adopted it would be pernicious, and therefore ought not to be employed by him. However the magistrate, though he should fortunately adopt Dr. Paley's opinion on the latter point, will not fail to remember, that the same instructor has expressly forewarned him (vol. ii. p. 411.) that "no rule of morality is so rigid as not to bend to exceptions; that these exceptions cannot be comprised within any previous description; that the obligation of every law depends on its ultimate utility; that this utility has a finite and determinate value; and consequently that cases may arise, in which the general tendency is outweighed by the enormity of the particular mischief;" that is to say, in which it becomes a duty to disobey the general moral rule on account of the mischief that would follow, or must be suffered to continue, were it observed. The magistrate, when under the strong pressure of present motives of bigotry or of interest, would probably not find much difficulty in persuading himself that the existing case

were pressed upon him, that general expediency required him to abandon the heretic to the zeal of the misguided, but well-meaning, priest ! And how much more frequently would the tyrant and the bigot defend upon this plea the preconcerted sacrifice of an obnoxious sect to their rapacity and pride !

A moderate knowledge of history will show that this reasoning is confirmed by numerous facts. The principle of expediency has been alleged to justify successive invasions of the civil and religious rights of mankind, too palpably unjust to be vindicated on any other plea. Was it not alleged when the Albigenes were devoted to the sword ; when the fires of the Inquisition were kindled ? Was it not the foundation of the abominable doctrines of the Jesuits ;

case is one of these lawful exceptions. And at any rate he would find this commodious doctrine of exceptions a very happy method of imposing on the understandings of others, and leading them to acquiesce in his plausible vindication of intolerance and cruelty.

of

of their intriguing counsels as politicians, their unchristian compliances as missionaries? Have we not heard it maintained to vindicate the breaches of faith, and the tyrannical usurpations, which have blotted out the name of Poland from among the states of Europe? Have we not heard it the leading maxim in the mouths of the philosophical anarchists, whose crimes have deluged France with blood? Do we not even yet hear it asserted in Great Britain to justify the horrors of the slave-trade?

Though the foregoing examples of the probable effects of the reception of this rule have been selected on account of their magnitude, it might perhaps be affirmed with truth and accuracy, that the numberless evils which would spring from the same source, and infect private life, though singly not sufficiently prominent to be characterised, would collectively produce a greater aggregate of misery.

I anti-



I anticipate the reply, which an advocate for the principle of general expediency would probably return to the preceding observations. He would allege that all moral rules, since they depend in their exercise on private judgement, may be misconstrued and perverted; that a charge, which may be indiscriminately urged against every standard of morality, is not of itself sufficient to evince the falsehood of any; that I have taken for granted, rather than proved, that the rule in question is more difficult to be applied, and more liable to be abused, than other elementary principles of ethics.

Is the principle then of justice, which heretofore was generally admitted, in argument at least, if not in practice, to be paramount to every other moral consideration, exposed to equal danger of error and abuse in the application with the principle of utility? Justice deduces her conclusions from premises which are always definite;  
and,

and; commonly, few and simple. Utility must reason from premises avowedly subject to no limit ; unless she can affix a bound to the number and to the extent of that series of consequences, which may arise from the actions respecting which she is to decide : consequences “ collateral, remote, immediate, and direct ; as in computing consequences it makes no difference in what way or at what distance they ensue (c).” Justice reasons wholly from facts ; which are naturally capable of being ascertained. Utility argues from mere conjectures respecting contingences ; which are of course incapable of proof. Justice lays down a system of precise and unalterable rules. Utility confesses that she can frame “ no rules without exceptions, nor comprise those exceptions within any previous description.” Let the reader judge, from this very short comparative statement, whether the principle of justice or that of utility affords the greater latitude for

(c) Paley, vol. i. p. 78.

error in speculation, as well as the more ample scope for abuse in practice (f).

They who are disposed to adopt the principle of general expediency, may pro-

(f) Dr. Paley himself, in some parts of his work, particularly in his chapters on utility and on general rules, seems strongly impressed with a sense of the mischiefs which would ensue, if men were permitted to disobey the commands of justice whenever such conduct should appear to them expedient. His argument, in the passages to which I allude, coincides with mine, and is incompatible with the admission of the principle which he recommends. Thus he denies (p. 73, vol. i.) that an oppressor may be assassinated by any one who thinks him "better out of the way than in it;" because "if you allow this excuse in the present instance, you must allow it to all who act in the same manner, and from the same motive; that is, you must allow every man to kill any one he meets, whom he thinks noxious or useless; which, in the event, would be to commit every man's life and safety to the spleen, fury, and fanaticism of his neighbour; a disposition of affairs which would soon fill the world with misery and confusion; and, ere long, put an end to human society, if not to the human species." Has he not, in these words, described and stigmatised his own principle? Does not his doctrine of general expediency, which pronounces no moral rule to be free from exceptions, and authorises every man to perpetrate whatever *he conceives* to be useful, commit the property, the liberty, and the life, of each individual to the spleen, fury, and fanaticism, of his neighbour; and open wide a door to enormities subversive of social happiness, and destructive of mankind?

perly take the following questions into their serious consideration.

First ; Does it appear probable, *a priori*, that the Almighty would leave his creatures to the guidance of so vague and so dangerous a rule ?

Secondly ; If an unprejudiced person were to argue from general expediency alone, would not his first conclusion be, that this rule of conduct should not be adopted by men ?

III. The adoption of the rule of general expediency as the standard of morals is incompatible with obedience to the Scriptures.

Previously to any direct proof of this position, it may be advisable to notice the tendency of the rule under consideration to impede the reception of the Scriptures, and of the religion which they teach, among those who at present deny their divine authority.

Though

Though the advocates of general expediency do not lay down, or expressly defend, the position, that utility is the criterion of religious truth; they unequivocally maintain utility, of which every man is to judge for himself, to be the only infallible test and criterion of the Divine will. If an infidel then were to undertake to investigate the truth of Christianity, he ought, upon their system, to fix his attention, in the first place, on the determination of this fundamental point, whether the reception of the Gospel would or would not, in his opinion, promote the general happiness of mankind. For, according to the principle in question, the result of his inquiries into that point must decide, whether it can be the will of God that the Christian religion should be embraced by men: in other words, whether it be true that the Christian religion has God for its author. If, in examining the question, whether the reception of the Gospel would or would not be useful on the whole, he should decide in the affirmative, he must consider all further evidence  
of

of every kind concerning the truth of Christianity as useless; as being of a far inferior nature, and able to add nothing to the conviction already produced by the decisive testimony of general expediency. And he would continue a Christian, unless, by entangling himself in the labyrinth of remote contingences, he should think that he discovered greater expediency in some other system; the whole, or the *more expedient* parts, of which he would then be bound to adopt. But what if he should determine in the negative? Unbelievers (*g*) in general

(*g*) Warburton, in his *Alliance between Church and State*, (4th edition, p. 78, note) affirms, that Bayle, Collins, Tindal, Bolingbroke, and *all* the other writers against Revelation, except Hobbes, laboured to shew the Gospel-system to be in the highest degree unreasonable. A reference to Leland's account of deistical writers will shew that by the term "unreasonable" Warburton did mean, or might fairly have meant, *inexpedient*. He also quotes (*Alliance*, p. 250) some expressions from Rousseau, which sufficiently indicate that author's opinion: "Christianity preaches up nothing but slavery and dependance. The spirit of it is too favourable to tyranny, for her not always to take the advantage of it. True Christians are made to be slaves," &c. To these names that of the celebrated Historian of the Roman Empire may be added.

profess

profess thus to determine ; and Mr. Hume, in the latter sections of his Inquiry into the Natural History of Religion, gives on this very ground no obscure preference even to polytheism. He must, without hesitation, pronounce our religion an imposture ; although he were to be convinced that all the various testimonies, on which its truth is usually rested by Christians, are singly and collectively irrefragable. That the Gospel promises to mankind the greatest of all blessings, and blessings which fully accord with our ideas of its divine original, no unprejudiced man, who understands it, will hesitate to maintain. But as he is far from doing justice to the cause of Christianity, who represents its apparent expediency as the *only* evidence in its favour deserving of consideration ; so is he also who inculcates a doctrine, from which that conclusion must necessarily be deduced.

The first consideration which will strike an attentive inquirer, who consults the

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Scriptures respecting general expediency, is the total silence of the Old and New Testament on the subject (*b*). In no part whatever of holy writ are we directed, either expressly or by implication, to frame our conduct in obedience to this rule. The instructions therein contained are, like the duties which they enforce, of two kinds: some are precise and absolute, as the injunctions prohibiting idolatry, perjury, and various crimes; others, equally obligatory, are indeterminate, as the precepts enjoining

(*b*) The direction "to do good unto all men," neither commands nor exhorts us, in doing good, to follow our ideas of general expediency, as the standard of moral obligation. It simply points out a duty to be performed; and leaves us to collect, from other quarters, the principles on which we are to proceed, and the manner in which the injunction is to be obeyed. So likewise the precept, "Love is the fulfilling of the Law," has no reference to the subject of the present inquiry. It teaches us that benevolence is to be exercised on every proper occasion: but it does not intimate, that we may show our love for one man by infringing the rights of another, if such a step should be suggested by our conceptions of utility. Similar reasoning would shew, that no argument in favour of general expediency could be drawn from the scriptural rule, "to do every thing for the glory of God."

reverence



reverence of parents and charity to the poor. With regard to the performance of duties of the first class, no scope is given for the exercise of human discretion, no deviation allowed as justifiable through any consideration of the consequences of obeying: man is peremptorily commanded to abstain from the forbidden act. As to the others, though, in general, we are left to judge of the manner in which they are to be discharged, there is not the smallest intimation in the Scriptures, that our determination is to be governed by the principle of general expediency.

But the silence of the Scriptures is not the only nor the strongest reason for concluding this principle to be inconsistent with Christianity. Revelation admits of no agreement or parley with a doctrine utterly subversive of the spirit and obligation of her precepts. According to that doctrine there is no crime, capable of being conceived by the human imagination, which a man may not be at liberty, under

possible circumstances, to commit ; there is no command in holy writ, however plainly expressed, however forcibly inculcated, which a man is not allowed, which he is not bound, to violate, whenever his blindness, his interest, his frenzy, induce him to imagine that the violation will ultimately be productive of advantage. Every man is thus invested with an unlimited dispensing power, authorising him to take the government out of the hands of God, and to decide when his laws are proper, and when they are not proper, to be obeyed. Such a dispensing power has not hitherto been admitted among Protestants ; and it is as little to be tolerated, and as little to be justified, on the plea of general expediency as on that of infallibility (i).

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(i) Dr. Paley observes concerning honour (vol. i. p. 273) what he might, with no less truth, have affirmed of general expediency, that, “ if its unauthorised laws be  
 “ allowed to create exceptions to divine prohibitions,  
 “ there is an end of all morality, as founded on the will of  
 “ the Deity ; and the obligation of every duty may at  
 “ one time or other be discharged by the caprice and fluctuation

The utmost which the principle of general expediency will allow its followers to affirm

"tuation of fashion," and, it may be added, by the suggestions of selfish ignorance.

It may not be useless to produce one of the instances in Dr. Paley's work, in which an adherence to his principle has led him to conclusions at variance with the Scriptures.

In his chapter intitled "The Consideration of General Consequences pursued," we meet (vol. i. p. 81) with the following lines:—"From the principles delivered in this and the two preceding chapters, a maxim may be explained, which is in every man's mouth, and in most men's without meaning, viz. *not to do evil that good may come*—that is, let us not violate a general rule for the sake of any *particular* good consequences we may expect—which is *for the most part* a salutary caution; the advantage *seldom* compensating for the violation of the rule."

This explanation of the precept is no less circumscribed than the permission of discretionary exceptions is unauthorised. When St. Paul rejects totally, and with abhorrence, the doctrine of doing evil that good may come, and affirms of those who falsely imputed it to him, that their condemnation is just: on what scriptural grounds can the precept in question be called by so light a name as a *caution*? On what scriptural grounds can it be inferred, that the opinion which we may entertain of future consequences, whether

affirm of the clearest and strongest injunctions of scripture, even of those which command us to worship God and to love him, to abstain from idolatry, from sins of impurity, from fraud, from oppression, and from any other crime forbidden either in the decalogue or in other parts of holy writ, is, that they are "*for the most part salutary cautions (k), the advantage seldom compensating for the violation of the rule.*" It declares that times and cases may occur,

particular or general, will *in any case* absolve us from obedience? Let the reader fairly put a case to himself: let him suppose that it were in his power to obtain the management of a great empire by means of perfidy and murder; and that he were persuaded that the consequences of his taking those previous steps would be on the whole beneficial to mankind. Would he then take them? Would he listen to the tempter who suggests to him, "All these things will I give thee if thou wilt fall down and worship me?"—Matt. iv. 9.

The asserter of the system of general expediency maintains that he ought.

"Nay but, O man, who art thou that repliest against God?"—Rom. ix. 20.

(k) See the preceding note.

of

of which every man is to judge for himself, when, the advantage of breaking the law will preponderate. For "*no rule of morality is so rigid as to bend to no exceptions; the obligation of every law depends on its utility; and this utility having a finite and determinate value, situations may arise in which the general tendency is outweighed by the enormity of the particular mischief.*" That this inference should have been deduced from the principle of general expediency is not surprising; for the former is the natural and necessary consequence of the latter. But we may wonder that a religious and considerate mind, on arriving at this conclusion, should not instantly revolt from the principle from which it flows.

IV. The principle of general expediency could not be employed, and consequently could not be designed, for the regulation of human conduct.

That the Almighty makes the ultimate happiness of the universe the rule of his conduct, is an incontrovertible truth. But does it follow that an immediate reference to this general plan of Providence must necessarily be the supreme moral standard, by which we are to regulate all our actions? Are we to assume, as a self-evident proposition, that the path marked by the steps of Omnipotence is the track in which weakness and frailty are to tread? Does it admit of no doubt, whether the principle, which gives birth to the decrees of eternal wisdom, be the ground on which short-sighted ignorance may best attempt to found its conclusions? Does the infinite distance between the Creator and the created afford no room for apprehension that the endless chain of causes and effects, however naked and open to the sight of God, may be involved in clouds and darkness impenetrable to the eye of man; and consequently, that it may be the wise purpose of Providence that man, instead of  
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endeavouring to regulate every action by a direct reference to the great end which the Deity proposes to himself, should fix his attention on other equally certain, but less extensive rules of morality, more adapted to his limited faculties, and of course more easy to be rightly understood and applied (1)?

From

(1) On another occasion Dr. Paley shows himself sufficiently aware, that the general rule by which the dispensations of the Almighty are directed cannot be adopted as the guide of human actions. After stating that the object of the Deity, in the infliction of punishment, is exactly to proportion the degree of pain to the guilt of the offender; and that of men, merely to prevent crimes, without regard to any such proportion: he remarks (vol. ii. p. 273), that “it is natural to demand the reason why a different measure of punishment should be expected from God, and observed by man; why that rule, which befits the absolute and perfect justice of the Deity, should not be the rule which ought to be pursued and imitated by human laws. The solution of this difficulty must be sought for in those peculiar attributes of the divine nature, which distinguish the dispensations of supreme wisdom from the proceedings of human judicature. A Being, whose knowledge penetrates every concealment; from the operation of whose will no art or flight can escape; and in whose hands punishment is sure; such a Being may conduct the moral

From the very principle of divine benevolence, on which the doctrine of general expediency is professedly founded, we must be convinced that our Maker would never subject his creatures to a rule which it is impossible for them to apply, and con-

“ral government of his creation, in the best and wisest  
 “manner, by pronouncing a law that every crime shall  
 “finally receive a punishment proportioned to the guilt  
 “which it contains, abstracted from any foreign consider-  
 “ation whatever; and may testify his veracity to the  
 “spectators of his judgements, by carrying this law into  
 “strict execution. But, when the care of the public  
 “safety is intrusted to men, whose authority over their  
 “fellow-creatures is limited by defects of power and know-  
 “ledge; from whose utmost vigilance and sagacity the  
 “greatest offenders often lie hid; whose wisest precautions  
 “and speediest pursuit may be eluded by artifice or con-  
 “cealment; *a different necessity, a new rule, of proceeding*  
 “*results from the very imperfection of their faculties.*”

Now the divine rule of inflicting punishments comes recommended to us by the same sanction on which the rule of general expediency is proposed; namely, by the conduct of the Almighty. Let the train of reasoning employed in the preceding extract with respect to the latter be transferred to the former; and it will be easy to discern that the imperfection of our faculties, compared with the peculiar attributes of the divine nature, proves the same necessity for a different rule of human actions in the one case as in the other.

frequently



frequently to obey. Such is the rule (*m*) under consideration. General expediency is an instrument not to be wielded by a mortal hand. The nature of general consequences is too comprehensive to be embraced by the human understanding, too dark to be penetrated by human discernment. In contemplating an action, who can form any adequate judgement of its collateral and remote effects making unceasing approaches towards infinity and eternity? Yet "in computing consequences, it makes no difference in what way or at what distance they ensue (*n*)."  
 In instances the most level to our capacities we perceive no more than a part of the effects which may result from our conduct; a part perhaps which, in point either of

(*m*) "By presuming to determine what is fit and what is beneficial, they presuppose more knowledge of the universal system than man has attained; and therefore depend upon principles too complicated and extensive for our comprehension: and there can be no security in the consequence, when the premises are not understood."

*Dr. Johnson. Journey to the Western Isles, p. 253.*

(*n*) Paley, p. 78, vol. i.

extent

extent or of importance, bears no assignable proportion to that which remains unseen. A faint glimpse of *particular expediency* is all that can ever be attained by the wisest of men. A view of general utility is the property of God alone; in him alone it is inherent; to created beings it may be incommunicable: but, whether communicable or not, it can never be the foundation of a rule of conduct to those, on whom it has not been bestowed. A proof that general good is highly difficult of investigation would have rendered it improbable that mankind should, in all cases, be required to consult it: a proof that it is never to be discerned demonstrates the impossibility of their being required to consult it in any (o).

But

(o) The description which Dr. Paley gives of his own rule (vol. ii. p. 412) deserves attention. He says, after having represented the duties of states as much more difficult to be discovered than those of private men, that "it is impossible to ascertain every duty of individuals by an immediate reference to public utility," for this reason among others, "because such reference is oftentimes too remote for the direction of private consciences." Yet a reference

But perhaps it may be said that it is not intended to affirm that our moral conduct is to be guided by an actual view of general expediency in this comprehensive sense, that view being confessedly beyond the reach of our faculties; but that our actions are to be regulated by what appears to us to be expedient, as far as we can discern their probable consequences.

Such an explanation affords no support to the system in question. It is a confession that we are to look not to *general* expediency, but to an expediency which, as far as it actually exists at all, extends merely to the few, and perhaps unimportant, consequences which we can distinguish; in other words,

ence to public, or, as it is elsewhere called, general utility, is the rule by which alone he maintains that the conscience of every man in every instance is to be directed. Had it been said, that such a reference is *always* too remote to ascertain *any* duty of an individual, or of a nation, an accurate description of the rule would have been given; and a description which would at once have shown it to be such a rule as Providence can never have designed to be adopted by man.

to

to *particular* expediency, and that of a most limited kind. Let us then inquire whether the rule so explained appears to be one, the observance of which would best enable us to promote the divine plan of universal good; and whether the duty of observing it can be established on that foundation, on which the reasoning advanced in support of the principle of general expediency avowedly rests.

In the first place, Does the rule under consideration appear to be such, as would most effectually enable us to promote the divine plan of universal good? Is the degree of expediency, which we can discern, in any case such as to justify us in inferring that we have a tolerable insight into general expediency? Surely no one will answer in the affirmative. As well might an Abyssinian pretend to delineate the whole course of the Nile, in consequence of having traced the windings of the infant river for a few miles contiguous to his hut. As well might a fisherman  
infer,

infer, that his line, which has reached the bottom of the creek in which he exercises his trade, is therefore capable of fathoming the depths of the Atlantic. He, who has had sufficient humility to become convinced how feeble and imperfect are the powers of the strongest human understanding; how inconsistent are the conclusions which he forms at one time with those, which he deems just respecting the same subject at another; how few are the consequences which he can foresee, compared with those which are wrapped in obscurity; will be the most ready to confess his ignorance of the universal tendencies and effects of his actions.

If this argument wanted confirmation, it might receive it from a view of the moral, to say nothing of the natural, government of the world. Even though we are previously convinced that the great object of the Almighty is the happiness of his creatures; in numerous instances we see very imperfectly, and in many others not at all,  
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how the detail of his operations conduces to the end which he has in view. Sometimes presumptuous ignorance would lead us to imagine that we perceive circumstances which militate against it, as the permission of moral evil ; others wherein there is an appearance of imperfection, as in the late establishment and partial diffusion of Christianity ; and numbers which seem indifferent to the design proposed, or neither fully nor directly to conduce to it. If then we are so far from discovering the propriety and excellence of the parts of a system, which we are certain is framed in exact conformity to the standard of general expediency, we may the more easily be convinced how little our utmost sagacity can discover of the ultimate tendency and effects of our conduct ; we may be assured that we are unqualified to determine whether those actions, which seem to further the particular expediency within the reach of our foresight, would or would not conduce to general good ; that the limited knowledge of expediency attainable by the wisest

wisest of men is unfit to be adopted as the basis of moral rectitude; and that, if it were adopted as such, we should very frequently be acting in direct opposition to the will of God, at the time when (*p*) we had fondly persuaded ourselves that we were successfully employed in promoting it.

In the next place, Can the duty of obeying the rule in question be in any degree fixed on the foundation, upon which the arguments in behalf of the principle of general expediency avowedly rest; that is to say, on the will of the Almighty evinced by his conduct? Undoubtedly it cannot. Our knowledge of the attributes of the Deity enables us to assert his universal benevolence: but our experience of his dispensations by no means permits us to affirm that he always thinks fit to act in such a manner as is productive of particular expediency; much

(*p*) This has particularly been the case with religious persecutors; but by no means with them alone.

less to conclude that he wills us always to act in such a manner as we suppose would be productive of it. This truth appears sufficiently plain from the considerations which have been recently stated. But here revelation comes to the aid of reason, and precludes all further argument on this subject. The Jewish Scriptures abound with instances of particular evils brought, as it is therein declared, by the hand of the Almighty, on individuals and on nations for their ultimate benefit. And the Gospel instructs us that our heavenly Father has not adopted a different conduct under the Christian dispensation. We know that he wishes the happiness of each individual: yet how often do we perceive him inflicting on his faithful servant a particular calamity, the disappointment of promising hopes, bodily distempers, mental disability? Who would think himself authorised by his views of expediency in inflicting these, or similar calamities? But in the hands of the Almighty occasional evil is frequently employed, how frequently



quently we know not, as an instrument of producing general good: as the drug, which in its own nature contains a deadly poison, under the management of the skilful physician becomes a salutary remedy. General good we can affirm to be the uniform object of the divine conduct: particular good we can discern *not* to be that object. Consequently, whatever reason we might have for conceiving that we should be bound by the will of God to an invariable pursuit of the former object, if we were able to discern it; we can have none for concluding that he wills the latter to be the fixed criterion of our moral conduct.

It appears then that the rule of particular expediency would be far from assisting our endeavours to promote the divine plan of universal good; and that it cannot derive support from any reasoning produced by the advocates of general expediency in behalf of the principle which they recommend. It may be added, that

both rules appear equally calculated to fill the world with oppression and misery, instead of answering their professed purpose of promoting universal happiness; and equally authorise every man to transgress every command of revelation at his discretion.

The reasoning pursued in the present chapter has finally brought us to these conclusions.

The principle of expediency, whether general or particular, assumed as the standard of morals, is totally devoid of proof. The conduct of the Almighty affords us no ground for inferring that he wills us to regulate our actions by the one or by the other. Reason rejects the former as totally inapplicable by man; and each as necessarily leading to consequences subversive of the very rule from which they flow. And Revelation forbids us to listen to doctrines, either of which arms every man with unlimited authority to violate at his discretion her most sacred laws.

## CHAP. III.

ON THE PRINCIPLE OF HONOUR AS THE  
STANDARD OF MORALITY.

**A**MONG the classes of society, of which the polite world, as the phrase is, consists, the principle of honour has obtained a predominant influence in determining moral duties. Some persons reject with undisguised contempt every other rule of duty. Others, in words not proceeding so far, advance nearly to the same extent in practice. And great numbers, who profess a regard for religion, treat the principle of honour with mysterious respect, as by some means entitled to a sort of co-ordinate or concurrent authority.

Honour implies the favourable estimation entertained of a man by others of his own line and place in society. This general estimation is founded in some degree on certain qualities, which are deemed parti-

cularly befitting the profession of the individual; but chiefly on those which are useful in smoothing his intercourse and facilitating his transactions with all ranks and professions, with which custom gives him a right to associate. Qualities of the former kind commonly relate solely to his conduct towards others engaged in the same occupation with himself. And an instance of his deficiency in any such quality, though as far as it should become known it would incur disapprobation, would excite much more lively resentment among his professional brethren than among the rest of his equals. Thus, not to mention courage, which is required from most persons of the stronger sex, the military man has his professional points of honour. The physician and the lawyer have respectively theirs likewise. Even ladies have their points of honour about their routs and assemblies. But as the officer, the physician, and the lawyer, together with other persons of various descriptions, are all included in the mass, which constitutes

tutes the fashionable world ; honour, considered as a general principle of conduct, comprises those qualities, which are commodious to all. Hence, in the first place, it enjoins with marked solicitude a punctilious observance of every point of form and etiquette ; points to which it is very right, on better motives, to render a decent attention. In the next place it requires, within certain limits, fairness of dealing and fidelity to engagements, from one man of fashion to another. It then takes upon itself to command various proceedings, against which the laws of the land set their face ; as culpable secrecy in several cases, the discharge of gaming debts, and the performance of sundry unwarrantable bargains. A few points, deemed essential, being thus secured, it is willing to be as liberal with respect to every thing else as any of its votaries can desire. Towards the Supreme Being it enjoins not reverence nor gratitude. At the most daring prophaneity it takes no offence. With the treatment of inferiors it concerns itself not. It

commands not the payment of a just debt to a starving tradesman. It enjoins no act of charity to the distressed, not even to a relative. It forbids not gluttony, nor drunkenness, nor seduction, nor conjugal infidelity, nor any deed or thought of impurity whatever. It brands humility as meanness of spirit, and placability as cowardice ; and inculcates revenge as a positive duty. Its jurisprudence is suitable to its morality. Like Draco, it writes its laws in blood. Of crimes it makes no distinction. For the least as well as for the greatest the penalty is death ; or, what as to justice is the same thing, the risk of death. At its tribunal to be suspected is to be convicted ; to be accused is to be condemned. It appoints no judges ; it impanels no jury ; it hears no evidence. Boasting itself as the support and cement of civilised society, it adopts the principle which characterises ages of the rudest barbarism. It commits to every man the prompt vindication of his real or imaginary wrongs. With the most preposterous injustice it treats alike the accuser and

and the accused, the guilty and the innocent. In defiance of all laws, human and divine, it arms each to the murder of the other. It consigns the decision to the blind event of a duel. It sends the complainant and the party complained of to the field of battle; each necessarily to commit an additional crime; the original aggressor too with the prospect of inflicting, and the sufferer of receiving, another and far more grievous injury; thence perhaps to be dispatched, one or both, by the hand of the other, from the midst of a career of sin, and in the very act of criminally seeking the life of a fellow-creature, and criminally hazarding his own, to the judgement-seat of God.

That human estimation is an extremely imperfect and delusive standard of virtue is a truth so obvious and so generally admitted as not to require the formality of proof. The experience of the present day concurs with that of all past ages in confirming the scriptural declaration: "That which is  
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“highly esteemed among men is,” in many cases, “abomination in the sight of God (q).” They who adopt the principle of honour as the rule of duty, adopt not merely a defective rule, not merely a rule which in numerous instances allows, and in some positively inculcates, the practice of abominable crimes; but a rule which in its essence and spirit is in direct repugnance to the standard of duty established in the Scriptures. In the place of the love and fear of God, they substitute the love of applause and the fear of shame. In the place of conscience they substitute pride. They “receive honour one of another, and seek not the honour which cometh from God only (r).” “They love the praise of men more than the praise of God (s).”

But it is by no means to persons regardless of religion that partiality to the principle of honour is restricted. In this point, as in others, the influence of bad example, and

(q) Luke xvi. 15. (r) John v. 44. (s) John xii. 43.



the effects of a very imperfect attention to Christian motives, are almost universally conspicuous. In the common language and transactions of men, placed in the upper classes of society, a reference to honour is heard to the exclusion of habitual appeals to the rules of religion. If a dispute is to be accommodated, the umpire is selected because he is "an honourable man." If you are doubtful as to embarking in any concern with a particular individual, your friends encourage you by the assurance that "his honour is unimpeached;" or warn you that in a certain transaction his conduct was thought "dishonourable." If a person seeks to repel a rumour prejudicial to his character, he mixes with his detail of specific arguments repeated general declarations, that he has always studied to act as "a man of honour." If he thinks proper to confirm a fact by a strong asseveration, he avers it, not "upon his conscience," that is, *as he fears guilt*; but "upon his honour," *as he dreads disgrace*. Those however who give in their deliberate judgment

ment the pre-eminence to religion, may do well to remember, according to the spirit of the caliph's celebrated reply respecting the Alexandrian library, that if by the term "honour," they mean "conscience," the use of the term is both needless and pernicious: and that, if they mean any thing else, they mean something, be it what it may, which a Christian ought not to recognise as the standard of moral duty.

That honour and conscience are very different, not to say generally opposite, principles, may sufficiently appear from the preceding statement and observations. And indeed, though it frequently happens, that persons of religion are seen to take pleasure in the appellation of *honourable* men; it would not be easy, I apprehend, to find a man "of perfect honour," who would be very much gratified by being characterised as "a man of religion."

What then, it may perhaps be said, will any one maintain that honour has rendered  
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no services to human society? Has it not contributed to soften and polish the manners of men? Has it not frequently controlled the fiercest passions, and prevented enormous crimes? Without doubt it has: and many other erroneous and corrupt principles of action are entitled to the same praise. It has certainly been of much occasional advantage to society that men, whom the love of virtue would not have restrained from outrageous guilt, have been checked by the fear of shame; and that others, whom the fear of shame would not have curbed, have been kept in order by the fear of the gallows. But would society have received benefit on the whole by the establishment of the maxim, that the probability of punishment is the proper standard of morality? As little has it gained from the elevation of the principle of honour to the same pre-eminence.

Are we then, it will be asked, to set at nought the estimation of men? Are we to labour to persuade ourselves that it should  
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be a matter of indifference, both to our judgements and to our feelings, whether our conduct is censured or approved, our example respected or contemned? By no means. The approbation of the good is an instrument of too much usefulness to be lightly valued. Nor is it to be prized merely as an instrument of usefulness. It is, under the appointment of Providence, one of the encouragements, by which the traveller in the path of rectitude is cheered in his way. But he who is ambitiously desirous of possessing human applause, will continually be in extreme danger of being seduced to act amiss, in order to acquire or to retain it, and of being gradually weaned from the proper sources of right conduct. And he who elevates the approbation of man into a predominant motive of action, and a criterion of moral duty, may continue to call himself a Christian: but he has virtually renounced the fundamental and distinguishing principles of Christian morality.

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By one of those inconsistencies which are found to take place in the best laws and constitutions, a Peer, in these kingdoms, though obliged, when examined as a witness in a court of justice, to answer on oath, (according to the settled maxim of law, *in judicio (t) non creditur nisi juratis*,) gives his verdict, when he acts as a juror on a trial before the House of Peers, *upon his honour*. That privileges should accompany rank is reasonable and necessary. But they are not happily selected, when they consist in exemptions from any obligation generally essential to the welfare of society; or tend to diffuse erroneous ideas respecting the genuine foundations of moral duty. There may not be any danger lest a Peer, in delivering his verdict “upon his honour,” should act with a less scrupulous regard to integrity than he would have shown, had he decided upon oath. But the practice seems, and more than seems, to set up a false standard of moral obliga-

(t) Blackstone, vol. i. p. 402. 10th edit. A Peer answers likewise to bills in chancery upon his honour.

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tion; and to represent sin as to be shunned rather from the dread of disgrace than of guilt. And it has greatly contributed to spread and uphold among various classes of society, prone to imitate the example of their superiors, the reprehensible language and opinions respecting honour, which have been already noticed as prevalent even among men of conscience.

## CHAP. IV.

## ON THE INFLUENCE OF CUSTOM ON MORALITY.

**T**HE two preceding chapters respected persons who, though labouring under great and highly pernicious errors as to the true foundations of moral duty, propose to themselves a specific principle as the standard of morality, and have, to a certain degree, some general knowledge of its nature and import. It is at present necessary to speak of a class of men, who may be seen passing through life under a delusion, very different indeed, but not less gross and dangerous; that of having no settled and distinct principles of moral duty. This class is very widely diffused. It comprehends great numbers in the middle ranks of society, men fully qualified by their education and habits of life to discern right principles of action; and includes many who in common language

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are denominated "orderly good sort of people." The individuals who constitute so large a class differ, as might be expected, from each other, within certain limits, as to their ideas of morality. In some leading points however they all agree. They have bestowed little time or attention on the investigation of the principles of morality, and the decision of dubious moral questions. The small degree of knowledge on such subjects which they possess, they have picked up as it were fortuitously: and when acquired, they retain it by rote, and apply it without solicitude, consistency, or discrimination. Those among them whose views are tinged with religion profess to look to the Bible as the criterion of morality, and to follow the particular rules which are therein contained. And if a languid inclination of the mind, founded on little reflection, and accompanied with little anxiety, and few and feeble efforts to reduce the principle to practice, deserves the name of an intention, they intend what they profess. By others, in whom



whom the tinge of religion is still slighter, a proportionally weaker regard is paid to the scriptural standard of duty. But, whether somewhat more or somewhat less attention to religious motives be professed by persons of the class now under consideration; consistency in moral reasonings is not to be found in any of them. All is indistinct and confused. At one time you hear them eking out the scanty stock of morality, which they have derived from the Gospel, with additions borrowed from the principle of expediency, at another from that of honour; occasionally seeming to regard these principles as teaching the same lessons with the Scriptures, an opinion the justice of which has already been sufficiently examined; and still more commonly resorting to them, when they find that scriptural morality does not happen to suit the convenience of the moment. Sometimes they carry their appeal no further than to the law of the land; and appear disposed to cast off all scruples, when an act of parliament will bear out their proceedings. Of

such persons the great practical guide in general is custom. They look to the actions of others in the same station with themselves, to their maxims, their rules, their usages in transacting business, their modes of employing their property, their principles of right and wrong, of approbation and censure. The opinions, on which they are thus accustomed to fix their thoughts, they speedily imbibe. What has been adopted by others, they adopt in their turn, partly for that identical reason, partly from habit : and find neither leisure nor inclination to scrutinise its propriety. Should they apprehend that their conduct in any particular instance may not altogether correspond with the ideas of strict observers, they have recourse to a favourite set of commodious axioms, which they have ready against emergencies. They remark, that people cannot in every case do exactly what they would wish : that what appears very reasonable in theory will not always answer in practice : that they have never met with any rules, which

which do not admit, and even require, exceptions: that their own motives, and the peculiarities of their existing situation, are known only to themselves: that they have always enjoyed a good reputation, and are not afraid to have their characters scrutinised fairly: that the best men must be prepared to be misunderstood, misrepresented, and undeservedly blamed: that they hope that they act tolerably well on the whole, perhaps quite as well as these persons, if such there be, who think otherwise of them. If they find themselves closely pressed, they hesitate not to add, that they must proceed in the same manner as others, and not give an advantage against themselves to designing individuals, who are ever on the watch to take it: that they see not how the business of the world could go on, if the punctilious scrupulousness, which some persons are pleased to inculcate, were indispensable: that they are thankful that they have always made a point of shunning the fastidious purity, which they have generally discovered to

have been but another name for hypocrisy. And they not unfrequently conclude, according to the common misconception or perversion of a scriptural phrase, with some significant observations on the folly of being "righteous overmuch."

He who should endeavour to convert to Christianity a serious Jew, or a considerate Mahometan, each of whom, from a conviction of the truth and importance of his faith, had been accustomed to make it the subject of his meditation, would usually have a far better prospect of success than he, who should undertake a similar attempt with respect to a man habituated to disregard all religious inquiry. And he who should endeavour to impress with just sentiments of morality a person who had been accustomed to act from conviction and with steadiness on a mistaken principle, would probably have fewer obstacles to surmount than those which he must have encountered, had he addressed himself to one, whom habitual carelessness and want  
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of reflection, together with entire satisfaction as to his own moral attainments, had rendered equally unused and indisposed to ethical investigations. It is less difficult to overcome prejudice, than to subdue the confirmed inattention of the self-sufficient.

There is another circumstance in the case of persons belonging to the class at present in question, highly unfavourable to their improvement in morality: namely, unremitting occupation in worldly pursuits. The shop, the manufactory, the compting-house, professional cares and professional employments, are suffered to absorb nearly the whole of their time and thoughts. What remains is given up to private affairs and to amusements. If a moral doubt should chance to obtrude itself, it is dispatched compendiously; or is referred for discussion to a more convenient opportunity, which is never known to arrive. Practice goes on in the old train: principles continue unsettled, or by habit become settled amiss:

and conscience grows tepid, or exerts itself only to approve what custom has made familiar, and convenience recommends.

Let it ever be remembered that morality is one of the two constituent parts of Religion. Let those, who are at once lukewarm in the acquisition and application of just principles of morality, and arrogant in their conceptions of their own moral worth, bear constantly in mind the prophetic rebuke of our Saviour directed to a Christian church of a character similar to their own: 'I know thy works, that thou art neither cold nor hot. I would thou wert cold or hot. So then because thou art lukewarm, and neither cold nor hot, I will cast thee out of my mouth; because thou sayest, "I am rich, and increased with goods, and have need of nothing;" and knowest not that thou art wretched, and miserable, and poor, and blind, and naked, Be zealous, therefore, and repent (u).'

(u) Rev. iii. 15-19.

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They who are practically "halting," whether conscious of their situation or not, "between" "two" or more "opinions;" mixing up for themselves a confused medley of moral rules, drawn partly from the pure sources to which Christianity refers the inquirer, partly from the principle of honour, or of expediency, or from some other principle equally erroneous and ensnaring, cannot easily be addressed in terms more appropriate than those of the prophet: "Choose ye this day whom ye will serve. If the Lord be God, follow him: but if Baal, then follow him (x)."

(x) 1 Kings, xviii. 21.

## CHAP. V.

ON THE GROUNDS FROM WHICH THE PRINCIPLES OF HUMAN CONDUCT ARE TO BE DERIVED BY NATURAL REASON. — STATEMENT OF FUNDAMENTAL PRINCIPLES OF MORALITY.

It appears from the preceding chapters, that neither general expediency, nor honour, nor custom, is the principle, from which reason is to deduce moral conclusions. And the question immediately arises, On what grounds is she to proceed ?

That question is in other words this. When the Scriptures, pre-supposing men to have acquired by the faculty of reason a general knowledge of the nature of moral duties, and to be capable of carrying down that knowledge into a variety of subordinate conclusions, do not give the detail of moral information which is found requisite ; by what rules is the will of God, respecting points of morality, to be ascertained ?



A recollection of the erroneous and fatal inferences, which, as we have seen, would naturally be derived from a principle lost in remoteness and obscurity, will materially contribute to facilitate our moral researches. It will convince us that the utility of the premises, from which rules of life are to be drawn, depends on their not taking their rise from too distant a source ; and on their being accommodated, as far as may be consistent with truth and sound argument, to the general level of the human capacity. When a Christian, in any particular instance, finds himself incapable of deriving clear and precise instructions from his Gospel, as to the mode of proceeding which he ought to pursue ; let him not seek or hope to remove his doubts by extending his view to subjects, which are incontestably beyond the reach of his faculties, and can perhaps be effectually contemplated only by an infinite mind. Let him consider his own peculiar situation : let him endeavour to collect the will of his sovereign on some specific and fundamental points ;

points; and, from the result of his inquiry, deduce subordinate rules for the direction of his conduct. These rules must also be such as fully accord with the revealed word of God; such as do not invest men with a discretionary power of transgressing the laws delivered in the Scriptures; such as do not set up human pride or human practice as the arbiter of moral duty.

From a view then of the situation and nature of man; a being placed on this earth by his Maker, endowed with peculiar gifts, and accountable for the use of them; the Divine will, respecting his conduct, may, as I apprehend, be collected on several fundamental points; and a number of rules be deduced of easy application, and adequate to the purpose of directing his steps in every case on which the Gospel is silent; rules, which will not only appear to be sanctioned by the uniform tenor of revelation, but in return will support and corroborate the injunctions of holy writ.

It

It may be necessary, however, before I proceed farther, to obviate an objection, which may perhaps suggest itself to the minds of some persons, against the propriety of a part of the investigations into which we are about to enter ; against such, namely, as relate to the natural rights and obligations of men, considered independently of the modifications under which we behold them subsisting in civil society. To us, it may be said, who are happily established in the enjoyment of a highly advanced and refined state of social union ; who have little, if any, concern, either with individuals or with nations, except with those who are nearly at the same point in the scale of civilisation with ourselves ; what benefit can result from examining into the rights and duties of the solitary savage ? It is time that such abstract and unprofitable speculations, the learned lumber of antiquated moralists, should at length be renounced by those, who profess to have their eyes open to the actual condition of the world around them,  
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and desire to submit to their coteremporaries lessons of practical utility. Nay it is, to say the least, extremely doubtful, the objector may proceed to affirm, whether all the natural rights, which might be enjoyed by an unconnected individual, do not of themselves merge and become extinct the instant that he enrolls himself a member of a community. And hence all disquisitions respecting them appear the more palpably vain and unproductive.

The latter branch of the objection evidently requires to be considered in the first place.

The question whether any, and what, natural rights are retained by individuals in civil society, has excited much discussion. By some it is maintained, that all natural rights are necessarily surrendered by men who enter into social communities: while others contend, that certain rights, which they specify, are necessarily retained in their full force by each individual

dual member of every state. The reasoning on both sides of the question has in common been equally theoretical and unsatisfactory. And the source of the confusion appears to have been, an attempt to establish a general conclusion respecting a subject which does not admit of one. The question, it must be remembered, is not a speculative enquiry what natural rights it would be most advisable and beneficial for the members of civil society to retain; but what rights they actually do retain. It is not then to be determined by the opinion which a philosopher may adopt of the benefit or detriment likely to result from the surrender of all or of any particular natural rights. It is a question respecting facts; and respecting facts which may vary almost without limit in different times and places: and in each particular instance it must be decided by a reference to the laws and institutions of that community, to which the investigation relates. In every community the individuals composing it, necessarily retain full possession of their  
natural

natural rights, whatever those rights may be, in all respects in which no (y) written law, nor any unrecorded usage having the force of law, has abridged or taken them away. If we reflect on the different stages of improvement in which civil societies have existed, and do now exist, we shall find it reasonable to conclude that they will be frequently discriminated each from the other by the different degrees of restraint imposed on the natural rights of their respective members. And an appeal to history, as well as a survey of the present state of the several nations in the old and in the new world with whose manners and institutions we are acquainted, will substantiate the validity of this conclusion. It would be absurd to suppose that in any

(y) Thus Sir William Blackstone states that "political or civil liberty, which is that of a member of society, is no other than *natural* liberty *so far* restrained by human laws, *and no farther*, as is necessary and expedient for the general advantage of the public. Every man, when he enters into society, gives up *a part* of his *natural* liberty." Commentaries, ed. 10th, vol. i. p. 125.

community

community the natural rights of individuals remain in their original energy : for submission to partial restraint is implied in the very nature of civil society. And it is not less absurd to contend that in any community whatever they are completely annihilated. No state, however rigid and despotic in its form of government, ever did or could proceed in practice to such an extreme of control. No state ever attempted to take away from its members all freedom of speech, all right of employing their time and their talents according to their inclinations, all right of self-defence. It has been said indeed, that all these rights, and more especially those relating to self-defence, are derived to the individual from the law of the land ; being granted either by its tacit permission, or by its express declaration. This gratuitous assertion, however, which takes for granted the very point in dispute, will not appear very reasonable, if it be made evident, as I trust it will be, in the following pages, that all the rights in question are of the number of

the common rights originally belonging to every man by the gift of God, independently of the existence of the human law. And therefore the law, to which their origin is erroneously ascribed, whatever language it may hold, can be received in this meaning and construction alone: namely, as declaring that in the instances under consideration it does not exact a surrender of the natural rights of the individual; but either leaves them totally unconfined, or subjects them only to the specified limitations.

It has also been maintained, that there are certain natural rights which the individual members of a state cannot in any degree relinquish. Personal liberty has been placed in this class: though no satisfactory argument has yet been alleged by those who stationed it there to shew why he, whom they confessed capable of binding himself to be in certain respects at the disposal of a master for a day or for a year, might not be competent to bind himself, if  
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he should think fit so to do, to be at the master's disposal in the same or in other respects even for life. A similar deficiency of proof prevails in the case of the other examples commonly produced.

From the preceding remarks it appears manifest, that research into the original rights and obligations of individuals, considered as unconnected with each other, must necessarily precede all inquiries into the civil duties of men when united in society. For the only objects, the disposal and arrangement of which can be claimed by any society, are the respective rights of its several members. The materials, therefore, must be collected, before the fabric can be raised.

A reference to these rights and obligations must also regulate the conduct of the members of the same society towards each other, in all cases, when the Scriptures are silent, and the laws of the society do not give precise directions.

And a similar reference, the Scriptures being again supposed silent, must govern the behaviour of men towards all individuals not belonging to their own society, nor connected with it by any express or implied engagements.

I propose therefore, at the same time that I studiously shun prolix discussions, into which some writers have injudiciously been led, concerning the situation of mankind in the state termed a state of nature, to investigate, in the first place, the original rights which men possess, and the obligations to which they are subject, independently of those rights and obligations which result from political union. My next object will be to prove, that the conclusions deduced by means of that investigation fully accord with the general tenor of the revealed will of God. And finally, the principle on which these rights and obligations may not only be suspended, but may likewise be modified, so as to be exhibited under an almost boundless diversity of forms, will be developed and illustrated.

In

In pursuance of this plan, the three succeeding chapters will be employed in evincing the truth of the following propositions.

- I. Every man has originally a right, by the gift of God, to the unrestrained enjoyment of life and personal freedom; and to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence.
- II. He, therefore, who deprives another of these gifts, or restrains him in the enjoyment of them, except such deprivation or restraint is sanctioned by divine authority, is guilty of an act of injustice to the individual, and of a sin against God.
- III. Every man originally has authority from God to deprive another of these gifts, or to restrain him in the enjoyment of them in the following cases, and in those only.

1st, When in so doing he acts according to the express command of God.

2dly, When he proceeds in such deprivation and restraint so far, and so far only, as is necessary for the defence of the gifts of God to himself, or in defence of the gifts of God to those whom he is bound by natural ties to protect, or those by whom his aid is solicited or to whom it is deemed acceptable, against attacks unauthorised by God.

3dly, When he proceeds to such deprivation or restraint in consequence of the consent of the individual suffering it.

IV. Every man sins against God, who does not act in such a manner with respect to the use, defence, and disposal, of his rights, which have been established in the preceding propositions,

sitions, as he is of opinion will, on the whole, fulfil most effectually the purposes of his being.

If these propositions shall be satisfactorily established, they will be found to settle on solid and determinate grounds the obligations of justice in all its branches ; and to afford a clear insight into the distinguishing characteristics of those two leading divisions in moral science, which ethical writers have usually styled perfect and imperfect rights,

## CHAP. VI.

THE FIRST AND SECOND PROPOSITIONS PROVED  
AND ILLUSTRATED.

**T**HE first proposition to be proved is, that "every man has originally a right, by "the gift of God, to the unrestrained "enjoyment of life and personal freedom ; "and to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence."

The terms "personal freedom" must always be understood to mean freedom from personal injury as well as from personal restraint.

By a right is meant authority from God for the enjoyment of any particular thing, or for the performance of any particular action : that is to say, such authority as excludes the right of interference on the part of other men. This explanation is subjoined for the following reason. A  
person

person may displease God, and therefore commit a sin, in resolving to retain to himself the enjoyment of a particular thing, or to perform a particular action; while, at the same time, God may have constituted him the judge, under the tie of future responsibility for his determination, whether he will retain the thing or not, whether he will perform the action or not. In that case, however wrongly he may determine, no other person is entitled to interpose and constrain him to act contrary to his own choice. So that, as far as men are concerned, he has authority from God, that is to say, *a right*, to retain the thing, or to perform the action, if he thinks proper. Thus, for example, a person is desired to lend a sum of money to a deserving acquaintance, who is in some temporary distress. He could lend it without the least risk or inconvenience: but he refuses. He is then requested to remain for a short time in the neighbourhood of the other party, for the purpose of aiding the latter with his countenance and advice. This  
request

request too he could grant with equal ease to himself, and advantage to the distressed man : but he immediately sets out on a long and unnecessary journey. Now we cannot doubt that his conduct was in each instance highly displeasing and sinful in the sight of God. Yet as God had constituted him, and not any other person, the judge how he should employ his property and his time ; no other person could justly attempt to constrain him to furnish the loan, or to remain in the neighbourhood : that is to say, he had authority from God, or a right, to withhold his money, and to take the journey.

The term "right" will also be occasionally used in the subsequent pages, after the example of other works which treat on similar subjects, to signify what in strict propriety is the object of a right : as when it is said that life is one of the rights of man.

Under the expression "natural rights," those rights which every individual possesses  
inde-



independently of the institutions of civil society will be comprehended.

That duty which consists in abstaining from infringing the actual rights of others, will be denoted by the term "justice."

The truth of the first of the propositions, which form the subject of the present chapter, is established by the following considerations.

Independently of any social engagement with others of the human species, every man finds himself possessed of existence, and of various bodily powers and mental faculties. As he cannot but discover the impossibility of his having been the author of his own existence and endowments; he must become convinced, on very slight reflection, that these blessings are the gifts of a gracious Being, to whose power he can affix no limit. He may therefore be assured, that he has a right to the undisturbed enjoyment of them, as long as it shall

shall seem meet to God, who bestowed them. As the wisdom apparent in the visible constitution of nature forbids him to think that the Deity would exert his power in vain, and lavish his bounty without having an adequate end in view; he may reasonably conclude that whatever has been conferred on himself has been conferred for important purposes. When he casts his eyes around on the rest of his species, he perceives that every individual is placed in the same general situation with himself and with each other; namely, that each is possessed of life and various powers of body and mind, manifestly the gifts of the Supreme Being, and no less manifestly bestowed for purposes of importance. The same reasoning therefore may be applied, and evidently ought to be applied, in favour of their rights, which is applicable in favour of his own. And, if he applies it, he must discover it to be his duty not to incur the guilt of disobedience in the eyes of an Almighty Benefactor, and the punishment attending his displeasure, by an  
uncom-

uncommiffioned encroachment on his gifts to others. He muft know that he has no authority to interrupt any of his fellow-creatures in accomplifhing thofe purpofes, whatever they may ultimately prove to have been, for which the common Maker of all called them into being.

He difcovers, further, that he is in danger of fpeedily lofing all thefe gifts, unlefs he takes fit meafures for their prefervation. He cannot conceive it to be the will of his Creator, that he fhould deprive himfelf, by fpontaneous neglect, of the powers and faculties conferred upon him ; and thus frustrate the purpofes, whatever they may be, for which he was created. And he finds himfelf impelled by painful fenfations, refulting from the constitution of his frame, to exert himfelf in removing the preffure of cold and hunger and other prefent evils ; and alfo directed by his fenfations to the proper remedies. Thus the natural want of food, and the prefence of fruits capable of fupplying it, afford him

sufficient grounds for concluding, that these fruits were formed for the support of his life ; and that he has a right to apply them to the use, for which they were evidently intended by the will of God. And in general, perceiving how admirably different parts of the inanimate creation (which, being apparently incapable of sensation, may rightly be deemed incapable of injury,) are adapted to obviate the different evils to which he finds himself exposed, and to answer the various purposes which the natural wish for accommodation and comfort suggests ; he may very reasonably infer that God designed them for the use of man : and may take in consequence from the common unoccupied stock thus provided for mankind whatever he finds necessary, whether it be for food, for raiment, for shelter, or for defence. He observes too that the rest of mankind have the same wants with himself, and of course the same title to the objects by which they are to be removed. From these reflections he may justly determine, that the fruit which  
any

any individual has plucked from the bough, and the tree which he has felled in the forest, are especial gifts of God to that individual: and consequently, that neither has he himself any more right to interrupt another, nor another to interrupt him, in the quiet enjoyment of these or any similar gifts, than either of them would have to disturb the other in the possession of life or freedom (z).

In this statement it has been said, that a man *might* arrive at a knowledge of his duty, in the particulars which have been specified, by the foregoing train of reasoning. Whether it would commonly happen that he *would* thus attain the whole of that

(z) If the foregoing observations do not prove, besides their professed object, that even reason alone might convince mankind (as St. Paul intimates, Rom. i. 18—21.) not only of the existence and superintending care of the Deity, but ultimately of the certainty of future rewards and punishments, I must be understood for the present to take those points for granted: as such a conviction is unquestionably the only adequate ground of moral obligation.

knowledge,

knowledge, whether all these several arguments and conclusions, though universally within the reach of his faculties, and many of them extremely obvious, would in reality suggest themselves to his mind, is a point not materially connected with the present inquiry. The existing object of investigation is not to discover what principles he would be likely to adopt, but what principles he ought to adopt. An acquaintance with the former might shew what his conduct probably would be: a knowledge of the latter is the indispensable requisite to enable us to point out what it ought to be. However he may permit prejudice and passion to warp his opinions and bias his conduct; yet neither his supineness nor his violence can alter the essential difference between right and wrong. To display this difference, to develop the rules of human duty, and place them on their true foundations, is the proper and the only business of the moralist.

The

The first proposition being established, it will follow, as it is expressed in the second, that “ he who deprives another of  
“ any of the above-mentioned gifts, or  
“ restrains him in the enjoyment of them,  
“ is guilty, except such deprivation or  
“ restraint is sanctioned by divine authority,  
“ of an act of injustice to the individual,  
“ and of a sin against God.”

It has been seen that the natural title of each individual to the quiet enjoyment of life, of personal freedom, and of such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence, is clear, and full, resting on the will of God. Now a title cannot be set aside, except by authority equal or superior to that, by which it was established. He, therefore, who claims a right forcibly to deprive his neighbour of any of the gifts which God has bestowed upon him, or to restrain him in the use of them, is bound to produce at least as strong and as authentic testimony of its being the

will of God that the deprivation should take place, or the restraint be imposed, as the other can that it should not. And if he presumes, without the production of such testimony, forcibly to interfere with them, he is not only guilty of injustice to the individual, but he acts likewise in direct defiance of that Being, by whom the gifts were bestowed.

No plea therefore can justify a forcible interference with the gifts of God to another, except manifest authority from God himself.

It remains to be considered in what cases such authority can be proved.



## CHAP. VII.

THE THIRD PROPOSITION PROVED AND  
ILLUSTRATED.

**I**N establishing the truth of the preceding propositions it has been shewn, that every man has divine authority for the quiet enjoyment of the gifts which God has bestowed on him; in other words, that these gifts are the actual and exclusive rights of the possessor. In the present chapter it will be proved, that in certain cases one man has divine authority, that is to say, a right, to restrain another in the enjoyment of these gifts, or even to deprive him of them. We should, however, conclude too hastily, were we to infer that rights can ever be opposed to, or clash with, each other. The seeming contradiction is easy to be obviated. The gifts of God continue to be rights of the possessor so long only as it is the divine will that he should enjoy them. Whenever in consequence of express direc-

tions from the original donor, or through the conduct of the possessor, another man has divine authority forcibly to interfere with them, they immediately cease to be rights of the possessor : and he may consequently be deprived of them, or be restrained in the use of them, without a breach of justice.

The first branch of the third proposition affirms, that " every man has originally " divine authority to deprive another of " the gifts of God, or to restrain him in " the enjoyment of them, when in so doing he acts according to the express " command of God."

It is not necessary to enlarge on a position, the truth of which no man will dispute. The reality of such a command is the only point which can ever be questioned. And we may safely determine, that no claim to inspiration is to be admitted, unless it be supported by the evidence of supernatural powers. For these are the only  
credentials,

credentials, by which the inspired messenger of God can be distinguished from the impostor : and they are the credentials by which the mission of those, who have been charged with especial commands from above, has in all ages been authenticated.

The second branch of the proposition affirms, that “ every man has originally  
“ divine authority to deprive another of  
“ the gifts of God, or to restrain him in  
“ the enjoyment of them, when he proceeds in such deprivation or restraint so  
“ far, and so far only, as is necessary for  
“ the defence of the gifts of God to himself, or in defence of the gifts of God to  
“ those whom he is bound by natural ties  
“ to protect, or to those by whom his aid is  
“ solicited, or to whom it is deemed acceptable, against attacks unauthorised by God.”

It has been shewn, without any reference having hitherto been made to the holy Scriptures, that all men are naturally pos-

essed of certain rights ; and further, that an attack on the rights of another would be a sin against God, and an act of injustice to the sufferer.

This will be confessed. But perhaps it may be alleged, that these considerations alone do not prove our actual right of opposing by force any such attack. The right of repelling aggression by the use of violence has been conceived by many Christians to be prohibited in the Scriptures. Others may regard it as unsupported by the dictates of natural reason. They may assert, that to restrain the freedom, and, much more, to bring into hazard the life of another, though an aggressor, may be a line of conduct equally unauthorised with his own : that, supposing this to be the case, his guilt will be no justification of ours ; that we may have no more right to kill an assassin than we have to destroy an infectious person, who might prove equally fatal to us : that although we must lament the approach of either as a severe misfortune, justice may, nevertheless, require

require that, if we cannot avoid the impending danger, we should patiently submit the event to God, and leave to him the punishment of the offender, and the vindication of his own authority.

This fundamental objection to the right of self-defence is not to be obviated merely by urging that the destruction of the human race would probably be the ultimate consequence of admitting it. We are not allowed to oppose our ideas of future consequences to the direct authority of God. It has been proved that every man has originally that authority for the quiet enjoyment of the gifts bestowed upon him : and he may justly require us to produce authority equally direct, before we presume forcibly to interfere with them.

In reply then it may be observed, that to make the case of the infectious person parallel to that of the assassin, the former ought to have been represented as wilfully attempting to injure our health. Other-

wife, he cannot be said to make an attack on the gifts which God has conferred on another. Of course the instance alleged can throw no light on the question, whether a person making such an attack may justly be resisted by force. A proof, however, of the irrelevance of a particular example does not invalidate the principle which it was intended to illustrate. The subsequent remarks, it is apprehended, afford a direct answer to the doubts expressed in the objection, and supply the proof which is required.

It has been shewn that the various bodily and mental powers possessed by each individual are the gifts of God; and further, that they are all bestowed for important purposes. Now among these powers are some, which the possessor may have clearly perceived to be calculated for the defence and preservation of the rest. He has already had sufficient grounds to conclude that the Almighty wills him to protect himself, by the use of such of the gifts conferred

conferred upon him as are applicable to the end in view, from the injurious effects of hunger, of thirst, and of inclement seasons. It is obvious, that in consequence of finding himself endowed by his Maker with powers capable of repelling injuries of other kinds, and impressed with an instinctive aversion to every sort of pain, he has equally substantial grounds for concluding himself authorised to resist injuries in general, by the use of such apposite means of defence as are bestowed on him. In other words, he may conclude, that for important purposes he is invested with a right, subject to such limitations as the original donor shall have already annexed, or shall hereafter, at any time, think fit to impose, to employ the powers of which he is possessed in defending himself against every kind of injury; whether it be likely to arise from famine or from nakedness, from the violence of a savage animal, or from the unwarranted attacks of a savage of his own species. And since he can in no case defend the divine gifts committed to his charge,

charge, without depriving the aggressor of some of his natural powers, or restraining him in the use of them : the arguments, which justify him in defending himself against an unauthorized attack, evidently justify such deprivation or restraint, as far as may be necessary for his defence.

He, therefore, who, by invading the rights of another, has met with resistance, and has thereby lost any of the gifts conferred upon him, his property, his health, his limbs, or his life, must impute the loss wholly to himself. He runs upon a weapon pointed against him by the hand of God. And the detriment which he receives is to be viewed in the same light as if it had been incurred by means of any other incident, which, by the appointment of God, is attended with painful or destructive consequences.

To the preceding observations some important inferences may be subjoined.

First,



First, The reasons, which prove that men are authoris'd by the will of God to resist an assailant, apply equally to the cases of open violence, and of secret fraud. Whether the aggressor be an avowed enemy, or a pretended friend; whether he attempt in the face of day to assassinate his neighbour, or by stealth to mingle poison with his food; the latter equally sustains an invasion of his rights, and is equally entitled to repel it by force.

Secondly, The same reasons, which prove that men are authoris'd by the will of God to defend their rights when actually attacked, equally prove them to be authoris'd, when they are sufficiently assured that an attack is intended by another, to lay such previous restraints on him as are necessary to prevent it; and to continue them so long as that necessity subsists.

Thirdly, The same reasons likewise justify a man in taking all forcible methods, which are necessary in order to procure the  
restitution

restitution of the freedom or the property, of which he had been unjustly deprived: such methods being only a continuation of the resistance which was made, or an exertion of that which might have been made, to the original attack. And they equally justify the force necessary for obtaining what is analogous to restitution, an equitable indemnification for such rights as cannot be restored.

Fourthly, They apply equally to the defence and recovery of all the actual rights of men, whether originally received from God, or obtained by their own exertions; or acquired, as it will hereafter be shewn that rights may be acquired, by the assistance and consent of others.

Lastly, They do not authorise any manner of resistance or force beyond that which is necessary to secure men from the effects of the injustice offered to them, or impending over them.

It

It remains to be shewn on what grounds and under what circumstances an individual may be justified by the light of natural reason in using force against another, for the purpose of giving assistance to a third person attacked by the latter.

From the conclusions which have been already established, it appears evident that he cannot be justified in thus interfering in behalf of any one, whom he has good reason to think may be the aggressor ; nor in any case in interfering further than is necessary to secure the rights of himself, and of those whom he protects.

Under these limitations his interference is justifiable in the following cases.

First, When the defence of the injured party clearly appears from the ties of nature to be committed to his vigilance and exertions. Under those circumstances no farther indication of the will of Providence

is wanting. Such is the situation of a parent with respect to his young children.

Secondly, When his aid is solicited or deemed acceptable by the party aggrieved.

It has been shewn that the latter has a right to impose the necessary restraints on the assailant. The arguments by which this right has been established vindicate him in employing the assistance of a fellow-creature, as plainly as they vindicate him in employing the aid of an ordinary weapon. If the person, whose interference he solicits, assents to his desire, the powers of defence belonging to the assistant, or such of them as are necessary to be exerted, are, in fact, lent to the injured party for the purpose in view. So far they become for a time his, and as such may be employed by him. For as every man has a natural ability to transfer to others the use or the possession of the divine gifts which he enjoys, (the use, namely, of those gifts received

ceived immediately from God, as his bodily and mental powers ; and the possession of those acquired, consistently with the will of God, by means of the former, as his food, clothing, and other articles of property,) and also to accept a similar transfer from others : so he may conclude himself authorised to avail himself of this ability, whenever it can be done without an infringement of the rights of another. In the present case no infringement can be alledged ; the assailant having previously forfeited, by his aggression, his right to the use and enjoyment of his natural powers, so far as he designed to exert them to the injury of the party attacked. The latter, therefore, has a right to apply for assistance, and to avail himself of it, if granted : and the person to whom application is made has a right to comply with the request.

If the latter should be satisfied that his interference is actually desired by the injured party, it is obviously a matter  
of

of indifference, whether the means were direct or circuitous by which the desire was communicated to him ; whether it was made known by express declaration, or was collected from circumstances which sufficiently implied it.

Thirdly, When his own security is immediately connected with that of the person whom he assists ; as if he is himself one of a company attacked by robbers. For the case then becomes self-defence.

Fourthly, When his own security is eventually concerned in repressing invasions of the rights of another : as when the aggressors, who are now attacking one of his neighbours, will in all likelihood be stimulated and emboldened by success, if permitted to be successful, to attack himself. The safety of his own rights essentially depends on the general repression of that violence, which he may reasonably expect to be directed, on any favourable occasion, against himself, if it be permitted to trample  
on

on the rights of those around him. This circumstance would almost always be of itself sufficient to justify him in giving immediate and unsolicited assistance to a person in distress; even to one who, in consequence of being stunned by a blow, or of any other circumstance, should be incapable either of asking aid, or of signifying that it would be acceptable. With respect indeed to persons in such a situation as this, he might reasonably conclude that Providence, which wills the rights of a helpless child to be protected by its parent, wills their rights to be sustained by every one who has power and opportunity to defend them: and from that consideration alone might justly deem himself authorised and bound to obey the natural impulse of benevolence.

From the preceding observations it is likewise evident, that there may be cases in which any man is justified in giving assistance to others against an assailant, even though the persons whom he succours

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should

should be led by private pique, by confidence in their own prowess, or by other motives, to object to any interference: namely, whenever such a step appears to him requisite for the defence or recovery of his own rights. He is at all times authorised to protect himself from injuries, either offered or meditated. And he is not deprived of this right by finding the aggressor engaged in outrages against others; nor by the unreasonable clamour of the persons attacked, who have no plea for obstructing him in taking such measures as are necessary for his own defence against injustice.

The same line of argument will also prove that he is equally justified in a similar interference for the defence or recovery of the rights of those whom he is bound to protect; and of those by whom his aid is solicited, or to whom it is deemed acceptable.

In the last branch of the third proposition it is asserted, that every man has originally  
divine



divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them, when he proceeds to such deprivation or restraint in consequence of the consent of the individual suffering it.

This point has in fact been already settled. For I have recently had occasion to shew that every man has a right to transfer to another the use, or the possession, according to the nature of the case, of any of the gifts of God which he enjoys, and to accept a similar transfer, whenever such a transaction can take place without a breach of justice towards others; and that whatever is thus transferred (*a*) becomes one of the actual rights of the party accepting it. And it has also been shewn in the fourth of the inferences deduced from the first branch of this proposition, that the use of force is no less justifiable for the defence and reco-

<sup>u</sup>  
(*a*) A subsequent chapter on engagements will point out the circumstances, which are requisite to give validity to the transfer of a right by promise.

very of those rights, which a man has obtained by the assistance and the consent of others, than of those which he has received immediately from God, or acquired by his own exclusive exertions (*b*).

In the proposition which we are considering it was affirmed, that no man has a right, in any case not included within the limits of those which have been discussed, to deprive another of the gifts of God, or to restrain him in the use of them. The truth of the assertion may easily be established. For in the proof of the first and second propositions it was shewn, that every one has divine authority for the unmolested enjoyment and exercise of the gifts which he has received, provided that the Almighty does not expressly resume them, and that they are not so employed as to infringe the rights of others. These are the only limits

(*b*) The cases and the manner in which the rights, established in the present and the preceding chapters, ought to be exercised, will be investigated under the remaining proposition.

ations

ations *immediately* proceeding from the will of God to which the natural rights of men are subject. A third limitation, though sanctioned by divine permission, is the immediate consequence of the act of man; and takes place when any of the gifts of God are voluntarily relinquished or abridged, as to the actual use of them, by the possessor. The rights of deprivation and restraint corresponding to these several limitations occupy the three branches of the third proposition. And as no limitations except those which have been enumerated are deducible from the first and second propositions, or compatible with them; the third proposition must necessarily comprehend all the cases, in which a forcible interference with the gifts bestowed on another has the sanction of divine authority.

These remarks afford a sufficient answer to any one, who should maintain that he is authorised thus to interfere in cases neither stated, nor virtually included, in the present chapter. It may not however be useless

more particularly to consider what may be alleged in reply to his claim, should he endeavour to support it on any grounds of expediency : that being the principle on which such a claim, if made, will probably be rested. On that supposition he must contend, that the right which he asserts is a branch of his right,

1. To promote the happiness of himself :
2. Or the happiness of the individual against whom his force is directed :
3. Or the happiness of some other individual :
4. Or general happiness; in other words, general expediency.

On the first head it will be sufficient to observe, that a claim set up by an uninspired individual to invade the gifts of God to another, whenever he conceives that such a step will conduce to his own happiness, is a  
claim

claim too palpably and immoderately extravagant to deserve much serious notice. It is an insult to him who conferred those gifts; and is resisted by the whole train of reasoning which has been employed to shew that all men possess the same natural rights, and that the rights of every man are at his own disposal. It is a claim which every one may assert, which no one can prove, and which never can be admitted until it be established by proofs the most decisive.

Individuals indeed are seldom hardy enough to allege this plea. And the law of the land in most countries takes care to cut short all such pretensions. Yet a plea substantially the same is not unfrequently asserted on the part of nations, under the denomination of the right of promoting the national interest, to vindicate oppressive proceedings towards foreign states and their individual members. The latter part of the present century has beheld the most striking exemplifications of this rule fur-

nished by four of the leading powers on the continent of Europe. Had the slave-trade been extinguished, Great Britain might have been exempt from similar reproach.

If, in the second place, the aggressor rests his claim on the ground of contributing to the good of the individual, whose rights he is about to invade ; can he shew that the Almighty has constituted him the judge of his neighbour's happiness ? On the contrary, is it not the fact, that God has originally left every man to determine what line of conduct will most effectually promote his own welfare ? Hath it not been shewn, that as every man is to be rewarded or punished for the use he shall have made of the gifts with which God has entrusted him ; so he has divine authority for employing them in any manner which he shall think most conducive to his happiness, provided that he does not thereby infringe the rights of any of his fellow-creatures ; and for retaining or relinquish-

ing

ing them solely at his own option? It follows then, that even if the assailant could prove by incontestable evidence that the happiness of the person whom he attacks would be in the highest degree promoted by the loss of the rights in question; such a proof would contribute nothing to his own vindication. What though we admit it to be on this account the duty of the other in the sight of God to resign them? It is a duty, for the discharge of which he is answerable only to his God. For it is the possessor of these rights, and not the invader of them, whom God has appointed to judge in what cases it is more advisable that they should be retained, and when it is better that they should be relinquished.

Thirdly. If the aggressor maintains his claim on the ground of promoting the happiness, not of the person attacked, but of some other individual, or individuals; an application of the preceding observations will shew that a presumption, or a conviction,

viction, of what their happiness requires, will not in any degree justify his invasion of the rights of another. If he has no authority to impose restraints, in order that he may promote the happiness of the person restrained ; a claim to impose them for the benefit of others must be, if possible, more unreasonable.

With respect to the fourth plea, the principle on which it is rested, namely, general expediency, has been distinctly considered in a former chapter. The subject may therefore be dismissed without further discussion.

It may not be improper in this place to meet an inquiry which may occur, whether restraints, the original imposition of which was unjust, may in any cases be continued consistently with justice.

The principles laid down in the present chapter evidently point out the following rule. Restraints originally unjust may be  
continued



continued in all cases, which would justify the present imposition of them ; and in no other.

Thus, if I had unjustly taken a sword from another man, I should be authorised to retain it so long as I should have sufficient reason to believe that, on receiving it, together with a fair indemnification for any loss which he had sustained by the want of it, he would revenge himself by plunging it in my breast. When his claims were satisfied, and no future injury was meditated against him, he would not be entitled to deprive me of the gift of life which God had conferred upon me, or to offer to me the slightest injury : and I should be justified in the previous use of all necessary force to secure myself from being exposed to the danger of an unjust attack.

Another instance relating to a topic much agitated at present may be subjoined. The negroes already in the West Indies, though  
they

they have in general been reduced to slavery by most unjust means, may be detained in that state as long as there is sufficient reason to believe that, if emancipated, they would massacre the planters, or ravage the islands.

In all cases however the foregoing rule presupposes, that it is full and impartial deliberation which has convinced us that the continuance of the restraint in question is necessary to the defence of the rights of ourselves, or of those under our protection. For, otherwise, we should not be authorised now to impose it.

If, for example, methods can be devised, and it will not be easy to satisfy a conscientious mind that they may not, which may enable us to emancipate the children of the negroes without exposing our colonies to the above-mentioned injuries, we are bound in justice to adopt them. Nor will the plea of defending the rights of ourselves or others authorise us to continue the

slavery either of children or parents now in our possession, longer than a *serious and candid inquiry (repeated, if necessary, from time to time, and at no long intervals)* convinces us that no such means are to be found. Nor will it justify us in refraining from immediately adopting all the preliminary measures in our power, which may pave the way for their emancipation, and enable them to be entrusted as speedily as possible with the liberty of which they have been deprived.

It remains to be shewn how far the principles established in this and in the preceding chapter are applicable to the case of those persons, who, from whatever cause, labour under mental incapacity.

It has been observed that the various bodily and mental powers, of which each individual finds himself possessed, are gifts of God; and that they are bestowed on him for important purposes, which he is to accomplish by his own endeavours.

Hence

Hence it was collected, that he has authority from God for the free and undisturbed enjoyment, use, and disposal of them, while he refrains from infringing the rights of others. But although this inference be just with respect to the man, who has physical ability to understand and fulfil the general ends of his being; the proper conclusion may be very different with regard to him who has not. The Almighty has conferred on a person in the latter situation certain gifts for important purposes: but at the same time permits the existence of an obstacle, which completely disables him from discerning and accomplishing those purposes at present. Under these circumstances, unlimited freedom on the part of the possessor in the disposal or in the use of his natural powers cannot be presumed to be sanctioned by the will of the Supreme Being. For, in the first place, such freedom would be attended with perpetual danger to the rights of others: and for the sake of defending those rights from attacks, the imposition of restraints

restraints upon the party in question would frequently be just on the principles already established, in cases when it could not have been vindicated towards those, who were able previously to answer for their actions. And in the next place, reason teaches us that the infant, the idiot, the lunatic, together with those who are incidentally and for a time disordered in their understandings by disease, by terror, by intoxication, or by any other cause, (for the argument equally applies to all, whose mental faculties are actually incomplete or deranged, from whatever source those circumstances may have arisen, and whether they have proceeded from the fault of the persons in question or not,) are to be considered as having received their endowments for the same general ends, for which similar endowments are bestowed on their fellow-creatures : and that God wills those gifts; which through the present incapacity of the possessor cannot be properly used, to be preserved ready to be applied to the purposes, for which they appear originally  
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and generally designed. We may therefore conclude, that whenever any one is by nature, or through any incidental circumstance, physically incapable of discerning the ends for which the divine gifts were bestowed on him, and of applying them to those ends, (and such is the situation of the persons enumerated above,) he is not authorised by a wise Creator to waste, to throw away, to injure, or to destroy them. On the contrary, we may infer the divine will to be, that these gifts should be superintended and preserved by such persons as through relationship or situation are the most proper to discharge the trust: so that, whenever the faculties of the possessor shall by the bounty of Providence be matured or restored, he may be in a fit state to avail himself of the change, and to fulfil the purposes for which it was permitted to take place. On these superintendants another no less obvious duty devolves, that of diligently endeavouring by all seasonable methods to draw forth the latent powers, and to re-establish the disordered faculties  
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of those, whom Providence has committed to their care. And since it may be presumed that when God lays an obligation upon his creatures, which cannot be discharged but by the use of certain means, he at the same time gives his sanction to the use of them; we may conclude, that whenever our duty with respect to persons, whose faculties are imperfect or deranged, cannot be fulfilled without resorting to force, the use of force, temperately and faithfully applied to the end in view, is sanctioned by divine authority.

Such individuals then as labour under a physical incapacity of understanding and accomplishing the apparent purposes of their being, have a right to the enjoyment and moderate use of the divine gifts, as far as they are properly capable of either; but not to the uncontrolled alienation, or to the lavish and destructive employment of them. And a right exists in others, in those namely whom the ties of Nature, or particular circumstances, point out as most fit to exercise

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it, of preventing by all requisite means the unhappy persons consigned to their protection from injuring, or destroying, or improperly alienating, any such gift ; and also of temperately enforcing any restraint, which may appear conducive to the purpose of rendering them capable of answering the great ends of human existence.



## C H A P. VIII.

THE FOURTH PROPOSITION PROVED AND  
ILLUSTRATED.

**T**HE object of the preceding propositions was to ascertain the extent and the limits of human rights. The course of the inquiry led to an investigation of the crimes, which consist in violating those rights; and are therefore not only sins against God, but likewise acts of injustice towards men. It must be obvious however to a person of a considerate mind, even though he were uninstructed by Revelation, that there are crimes of another description. For he must discern that, although he should carefully abstain from infringing the rights of his neighbour, he will assuredly incur the displeasure of his Creator, if he does not also make a proper use of those bestowed upon himself. He cannot conceive himself at liberty to employ them in any manner which passion, caprice, or inclination may

suggest,

suggest, with the single exception of not injuring his fellow-creatures. For the wisdom and design displayed in the constitution of himself, and of every thing around him, teach him that all his bodily and mental powers were bestowed by the Supreme Giver for the accomplishment of important purposes. Those purposes therefore, under such clear indications of the intention of Providence, he must consider it to be the special business of his life to fulfil: and he must necessarily look on each of the rights which he has received from the divine bounty as one of the destined instruments, by which they are to be accomplished. Hence he cannot fail on reflection, to discover and acknowledge the truth of the general rule conveyed in the fourth proposition: namely, that “every  
“ man sins against God, who does not  
“ act in such a manner with respect to  
“ the use, the defence, and the disposal  
“ of the rights, which have been established in the preceding propositions,  
“ as he is of opinion will, on the whole,  
“ fulfil

“ fulfil most effectually the purposes of his  
“ being.”

This proposition applies to three distinct branches of human conduct. It furnishes each individual with a rule to be observed with regard to the use of his rights, to their defence, and to their disposal. On each of these heads it may be proper to bestow distinct consideration. But as the conduct of every man in the particulars which have been enumerated is to be decided by a reference to the various purposes which he was created to fulfil ; and as it highly concerns him to avoid, whenever it can be avoided, the necessity of forming a hasty determination in the moment of action, since a determination thus formed lies under a peculiar risk of being erroneous ; he ought previously to impress upon his mind adequate ideas of the nature of those purposes, and to appreciate, as far as may be practicable, their relative importance. It may be useful therefore to endeavour to facilitate such researches, by pointing out in a few

words some of the principal ends of human existence discoverable by natural reason. Reference will afterwards be made to the light of Revelation.

The primary end of the being of every man is obviously to promote and secure his own final happiness; an object which he can attain by no other method than by a zealous and faithful obedience to the will of his Maker. He cannot therefore but acknowledge it to be incumbent on him diligently to perform such actions, to acquire such habits, to cherish and improve such dispositions, as he has reason to believe will be acceptable to God. Every thing of an opposite description it is no less evidently his duty scrupulously to avoid.

There are subordinate purposes, conducive however to the principal one already mentioned, which not only his reason, but the very frame and constitution of his nature, shew that he was formed to answer. These are, promoting the final  
welfare

welfare of his fellow-creatures, and their present happiness as well as his own.

In his attention to the general happiness of others, he will find different individuals pointed out to him, by a variety of reasonable claims, as objects of different degrees of his kindness and solicitude. In proportion as particular persons are more closely connected with him by the ties of kindred and of affection; in proportion as they have heretofore shewn kindness to himself; in proportion as they stand more in need of the assistance which it is in his power to bestow; in proportion to the force of any or of all of these circumstances, and of others which might be enumerated, he will find himself under a more pressing obligation to study to forward their present and future welfare. Though he is not answerable to men if he should refuse or neglect to confer upon them those benefits, which he has a discretionary right to bestow or to withhold; he is accountable for that refusal and that neglect to his God. For

every opportunity of doing good to one of his fellow-creatures, without being obliged to omit some other duty of equal or of superior importance, is an opportunity afforded him of serving his Maker, and of promoting his own final happiness. And he is bound never to neglect any fit occasion of manifesting his gratitude to heaven for the numerous blessings spontaneously bestowed upon himself by the divine goodness, or of promoting, by a conscientious discharge of his duty, the ends of his existence.

We may now proceed to pay separate attention to the three branches of human conduct, to which the fourth proposition relates.

I. The first is the duty of man with respect to the use of his rights. The use of rights, as distinguished from the defence and the disposal of them, refers principally to food, clothing, exercise, amusement, and the active employments of the bodily and  
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mental powers. To these several particulars one general reflection may be applied: that each of them is productive of its peculiar moral trials; and has a relation, more or less direct, to our final happiness as well as to our present comfort. Our conduct therefore, with respect to each of them, will most effectually promote the great purposes of our being, if we strictly attend in the case of each of them to the subordinate designs, which they are respectively intended to answer; and carefully endeavour to guard against the temptations, by which, in the use of them respectively, we are liable to be ensnared,

Food, clothing, and exercise, are obviously designed for the preservation of the bodily and mental powers in a state of vigour and activity. The dangers attending an improper use of the two former are sufficiently indicated by the example of those, who destroy their health, debase their reason, and aggravate their passions, by the intemperate indulgence of fastidious and

brutish appetites; and by the more numerous instances of others, who enervate their minds, contract a distaste and aversion to laudable pursuits, and become a prey to the daily and hourly suggestions of vanity, caprice, pride, and envy, through solicitude concerning exterior ornaments.

Exercise is rarely misapplied, except when it may be regarded as an amusement: as when persons whom their property and their situations in the world enable to become extensively beneficial by a right application of their talents, addict themselves passionately to the sports of the field, and lead a life not more useful, probably less creditable, than that of a huntsman or a game-keeper. The neglect of moderate exercise in the open air, not uncommon with studious men, and with others, especially with persons of the female sex, who cease to regard it as an amusement, naturally tends to enfeeble the body and mind; to depress the prime of life with the languor and listlessness of  
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premature old age ; and to preclude old age itself from a large portion of that activity, usefulness, and satisfaction, with which it might otherwise have been crowned.

The natural purpose of amusements is to unbend the mind ; to recruit the languid and wearied faculties for future exertion ; and, by diffusing a placid cheerfulness over the spirits, to raise and improve sentiments of benevolence to man, and of gratitude to God. The advantages of them will be best secured, and the corresponding dangers avoided, by taking care that our amusements be such alone as are perfectly innocent in themselves, of a virtuous tendency, or at all events not likely to lead to any criminal action or idle habit ; that even these be not permitted to occupy too considerable a share of our time, nor those portions of it which could most commodiously be allotted to objects of higher concern ; that they be pursued only for their proper end, and  
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estimated at no more than their proper value.

The active employment of our bodily and mental powers will appear in the highest degree important, if we place before our eyes the comfortless and vicious lives of those, whose time is not occupied in meritorious pursuits ; and if we reflect on the daily and ample scope which it affords for confirming, extending, and manifesting our obedience to God, and our zeal for the happiness of our fellow-creatures. The exertion of our reasoning faculties is calculated to enable us to attain the knowledge of the attributes of God, and to make ourselves masters of the detail of human duties ; to contribute to the establishment of ourselves and others in the practice of virtue ; to lead to such an insight into the nature and properties of different works of the creation, even beyond the limits of the earth, as may not only impress on our minds the fullest conviction of the power, wisdom,

wisdom, and goodness of the Supreme Author of the universe, but may also be of most essential service and comfort to men in the concerns and incidents of common life. And our faculties and endowments of every kind are best employed in promoting the influence of reason and of religion, in the encouragement of science, in preventing or redressing injuries, in relieving distress, in diligence in our several honest occupations: and ought particularly to be exerted for the benefit of those, who, by the ties of nature, or by other circumstances, are best entitled to our attention. Together with all the vices which are opposed to the several duties here enumerated, we are studiously to guard, every man namely according to his state and mode of life, against those prejudices and failings, to which our respective professions may more especially incline us; as well as against arrogance on account of the possessions or attainments bestowed on us, and its natural consequence, contempt of others, who may in any respect appear to be less favoured by Providence than ourselves.

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There are few pursuits compatible with justice, in which we are in greater danger of employing our bodily and mental powers in a reprehensible manner, than in those of which the acquisition of property is the object. It would be easy to illustrate this remark by instances which are continually occurring in all ranks of civil society. In every transaction of buying and selling, whether on the extended scale of commerce, or in the smaller kinds of bargain and traffic, which collectively fill a very large space in the intercourse of common life, each party is exposed to the temptation of availing himself of his neighbour's ignorance, or taking advantage of his necessities; the seller, in particular, of using improper methods to enhance the value of his goods; and the purchaser, of obtaining possession of them, without being sufficiently assured of his ability to complete the payment in reasonable time, or even to complete it at all. These are proceedings which it is not unusual with men to defend on the plea of *custom*; in other words, on the

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the plea that multitudes act as unjustifiably as themselves.

But whenever an opportunity is opened to any man of acquiring, with his neighbour's consent, a power over any of the rights of the latter, whether in the way of purchase or as a gift; he is bound not merely to attend to every obligation of justice which may arise from the circumstances of the case, but steadily to bear in mind all the various purposes of his being, and to consider whether he shall more effectually promote them by acquiring or by declining the possession of the right in question. And, if the acquisition should appear the less likely to favour their accomplishment, it is his duty resolutely to withstand the offer, though it should hold forth prospects the most alluring to his inclinations and passions. Further, if he accepts it, when he has reason to believe that by such acceptance he in any degree disqualifies the other party from fulfilling, on the whole, the purposes of his being; though  
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he does not violate any of the rights of the latter, and therefore is not answerable to him for the loss incurred by the surrender, yet he commits a sin in the sight of God. For it is the will of God that every one of his creatures should accomplish the ends, for which he was made. Whoever, therefore, knowingly contributes to disable his incautious neighbour from fulfilling that will, is himself guilty of resisting it. Thus let a man of wealth in search of a place of residence be supposed to have the option of purchasing an estate, situated in a beautiful country and a pleasing neighbourhood, and in all respects circumstanced according to his desire. The money is ready on the one side ; a good title is produced on the other ; why should not he purchase ? By purchasing he would violate no obligation of justice. But if he has sufficient grounds for apprehending that the purchase would, in all likelihood, render him, by its consequences, a less faithful and vigilant observer of his Creator's will ; if it would throw him into society adapted to allure him

him into vice; if it would embroil him in the rancorous disputes of party, and the corrupt manœuvres of political intrigue; if, concurring with his natural weaknesses and propensities, it would probably chain down his thoughts, and consecrate his time to hounds and horses, to pointers and guns; he is highly criminal in the eyes of God, if he does not decline the proposal. And again; though no cause relating immediately to himself should evince the purchase to be improper; yet, if he is conscious that the seller, by disposing of the estate, will unwarily and irrecoverably throw himself out of a station of great usefulness to himself and others, or will by any other means render himself less capable than he is at present of discharging his duty to God; he acts a sinful part if he embarks in a purchase so detrimental to the best interests of his neighbour.

II. The duty of men with respect to the defence of their rights is next to be considered. The general rule laid down in

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the fourth proposition ought to determine an individual, whose rights are attacked; whether he should resist or not; and also to guide him, if he should judge the former line of conduct incumbent upon him, with regard to the degree and the mode of his resistance. The following remarks may perhaps assist him in forming a just decision.

It is the natural duty of every man to endeavour to preserve himself in such a state as may best enable him to fulfil the will of God; or, in other words, to answer those purposes for which his Maker called him into being. And since Almighty wisdom bestows no gift but for an end adequate to the value of that gift, there is in every case a presumption, antecedent to reasonings on either side of the question, that each right, of which an individual finds himself possessed by the bounty of Providence, is necessary to enable him fully to accomplish the purposes of his existence, or, at least, is adapted to be of material use in promoting



promoting them ; and consequently that God wills him to retain it. He therefore sins against God if he slights this presumption, and forbears from resisting to the utmost of his power, by all requisite force, every invasion of his rights ; unless he is convinced, by a full and impartial consideration of the benefits likely to result from his forbearance as well as from his resistance, that the former measure, adopted in a greater or in a less degree, will, upon the whole, conduce at least as much as the latter to the ends for which he was created. If his conclusion should be, that the whole, or the more important, of these ends will be most effectually promoted by a total or a partial forbearance ; it becomes then no less his duty to forbear, than it would have been on the contrary supposition to resist with his utmost ability.

Whoever by self-defence, in a case wherein self-defence was a duty, has endangered or lost his life, or other natural rights, is not chargeable with the guilt of

disqualifying himself from fulfilling his Maker's purposes : the risk of such loss being inseparable from the resistance which, on the present supposition, God is deemed to enjoin.

But he who resists, when his conscience requires him to abstain from the defence of his rights ; though he is not guilty of injustice, and therefore is not answerable to the aggressor for the detriment which the latter may receive, is answerable for it to his Maker ; and also for the injury which he himself may sustain in the contest.

The observations which have been made under this head obviously apply not only to the duty of men with respect to the defence of their rights in the moment of invasion, but likewise to their duty with respect to using force either for preserving them from meditated injury, or for obtaining the restitution of those which have been taken away, or indemnification for their loss.

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The difficulty of deciding whether any, or, if any, what forcible means ought to be employed for the defence or recovery of rights, attaches to cases where the different subordinate purposes of human existence seem to interfere with each other, and to require different lines of conduct. Where the principal purpose appears at stake there is no place for deliberation. Thus every man is bound, not only to have recourse to resistance at first, but to persevere in it to the last extremity, if an attempt be made to deprive him of the liberty of praying to or of praising God. For his own final happiness is the primary end of his being; and those are his primary duties which must form the basis of the intercourse between himself and his Maker. But a person engaged in an important litigation, considering in the first place the advantage which his children would derive from his success, and the small chance of his living to provide for them by other means; and afterwards weighing the probable expence of the contest, and the risk of being

finally disappointed by the death or absence of witnesses, may find it no easy matter to determine whether it be his duty to persist in the suit, or to relinquish it. So likewise a clergyman, who discovers himself entitled to more ample tithes than he receives, may reasonably be in doubt, whether his obligation on the one hand to avoid all interruption of the harmony between himself and his flock, (an interruption which so frequently results from the institution of tithes, as perhaps to furnish a decisive argument against the propriety of that mode of supporting the clergy,) or his duty, on the other hand, to his successors and to his family, should determine him to abstain from, or to resort to, compulsory means of recovering his legal rights. Impartial attention to the general rule under consideration is the only method of settling these and similar doubts.

III. By the duty of men, with regard to the disposal of rights, is meant their duty with respect to the voluntary modification,  
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abridgement, or relinquishment of their rights, when no force is exercised, or known to be meditated against them. This limitation is inserted, as the duty of men with respect to the surrender of rights actually attacked or endangered has already been considered. A faithful application of the rule stated in the fourth proposition will resolve all cases of that nature. And many of the remarks which have already been made in the course of this chapter are so obviously transferable to the present subject, that it is unnecessary to occupy the time of the reader by stating them again in detail. It will be sufficient to observe generally, that those rights, which no man can resign without endangering the accomplishment of the principal purpose of his being, cannot in any case be resigned without offending God : and that all rights, by which the possessor finds himself obstructed in fulfilling that purpose, ought without delay to be relinquished, however conducive they may appear to the subordinate ends of his existence. Thus no man can be justified in sur-

rendering into other hands the direction of his religious creed and of his conscience ; nor for retaining an office conducive in many respects to his present happiness, and affording him frequent opportunities of promoting that of others, if he perceives his continuance in it to be irreconcilable with the discharge of his primary duties to God.

## CHAP. IX.

THE PRECEDING PROPOSITIONS SHEWN TO BE  
CONFIRMED BY THE SCRIPTURES.

THE principles, which have been deduced in the three preceding chapters from the light of unassisted reason, will acquire, if they are shewn to be sanctioned by the scriptures, a degree of authority, without which they would comparatively deserve little attention. For although the sacred writings, leaving ample room for the exercise of conscientious deliberation on points of morality, do not enter into systematic details concerning the many subordinate branches of human duty; yet they so clearly discover both the grounds of moral obligation, and the fundamental outlines of moral practice, that no ethical writer who believes in their divine origin has any just reason to place confidence in the principles and rules of conduct which

which he proposes, until he has brought those principles and rules to the test of holy writ, and is satisfied that they accord throughout with the revealed will of God. I shall, therefore, briefly endeavour to prove that the several propositions which have been already stated, are sanctioned either by the unequivocal declarations, or by the general tenor of the scriptures, before I proceed to derive from them any further conclusions.

In the first place, the scriptures teach us, in concurrence with the first of those propositions, that existence, with every bodily power and mental faculty possessed by each individual, was bestowed upon him by the bountiful hand of God. They also declare in general terms, which convey the same natural rights to every individual, being addressed to the first parents of mankind as the representatives of the human race, that the earth, under which term its various productions are manifestly comprehended, was delivered unto man  
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to be *subdued* by him ; that is, to be employed for the relief of his wants, and the gratification of his reasonable desires. He was invested with an express right of applying the vegetable creation (a single exception being made, with the object of which he did not long continue to be conversant) to the purpose of his sustenance : and at a subsequent period he received similar authority over the whole (*b*) animal world,

(*b*) As animals are evidently susceptible of pain and injury, man, uninstructed by revelation, could not have had the least right to exercise any authority over them. To restrain them in the enjoyment, much more to deprive them of the possession, of those gifts which his and their Maker had seen it good to bestow upon them, would have been in every case, except in the defence of himself or of others against their attacks, an act of usurpation, and a sin against that Power, who, for wise ends known to himself, had called them into existence. This reasoning appears to be confirmed by the method of proceeding which the Almighty thought fit in two instances to adopt : namely, by his at first bestowing on men dominion over animals by an express and unequivocal declaration ; and afterwards by his imparting to men a further power of using them as food, by a declaration no less clear and positive. For these circumstances seem pointedly to indicate,

world, which had not originally been subjected to his unlimited dominion. This additional charter of human rights, flowing, like the former, from the spontaneous bounty of the great Lord of all creation, was plainly addressed to Noah and the other survivors of the deluge not merely as private individuals, but as the representatives of their future descendants; and was designed to convey to each of those descendants the same rights, which it bestowed on the persons to whom it was originally made known.

Further: the scriptures have for their principal object the inculcation of this fundamental truth; that every man is placed upon earth by his Maker to work out his salvation, under the blessing of

dicte, that, without such a revelation of the will of the Supreme Being, men would have had no right of sovereignty over other living creatures; and that their right in no case extended further than his special permission expressed.

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God, and in the way declared in the scriptures, by his own actions.

And since they teach us that the reward or punishment of every man will be increased in proportion to the manner in which he employs each of the means of action of which he is possessed; they necessarily and incontestably imply that his conduct should be free, except in cases in which it is restrained by the authority of his Maker: in other words (as it was asserted in the second proposition), that he is guilty of a sin against God who deprives another of any of the gifts of God, or restrains him in the enjoyment of them, except he has authority from God for so doing: and that he is also guilty of an act of injustice to the person thus deprived or restrained.

To proceed: the scriptures expressly assure us that the perfections of the Deity, more especially his power, his wisdom, and his goodness, are visible in his works, and  
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are particularly conspicuous in the formation of man; that his gifts to man are all of them valuable and important, all calculated for specific purposes, and intended to be diligently employed. They continually inculcate on every individual, that it is his duty to use these gifts in such a manner as may best enable him to fulfil the ends for which he was made; namely, to promote and secure his own final welfare, together with the final welfare of others, and their present happiness as well as his own. Now, as these are precisely the principles on which the reasoning urged in the two preceding chapters in support of the third and fourth propositions is founded; it follows, that those chapters have scriptural authority for their basis. For a proof that the particular conclusions which have been deduced in them are confirmed by the whole tenor of scripture, if the reader is well acquainted with his Bible, I appeal to his own knowledge: if he is not, I refer myself to his future conviction, when better reasons than a desire to satisfy him-

himself as to the proof in question shall have disposed him to a diligent study of those laws of God, according to which he ought to govern his whole conduct now, and must inevitably be judged hereafter.

I will dwell on this subject no longer than while I meet a question which may be asked, and which some men would be glad to think unanswerable. "You have proved," it may, perhaps, be said, "that the great rules of human conduct contained in the Scriptures are discoverable by the light of unassisted reason. Where then was the necessity for the Christian Revelation?" The Christian Revelation, I reply, was necessary, that those rules of life, which none but the wisest would have deduced for themselves, and even they but very imperfectly, might be placed at once before the bulk of mankind, expressed in the plainest language, founded on unquestionable authority, and recommended by the most persuasive example. It was necessary, for the purpose  
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of inspiring men with gratitude to God, and of enforcing upon them the practice of the various duties of forbearance, a practice the most ungrateful to their natural passions, by convincing them of their fallen degraded state, and of their Maker's unspeakable condescension and kindness in the means of their recovery from it, by the death and sacrifice of Jesus Christ, and by the sanctifying aid of the Holy Spirit. And lastly, it was necessary, in order to fix on immovable foundations that corner-stone, on which the whole fabric of our reasoning has been built; the certainty of a future state of retribution, in which every individual will be rewarded or punished in exact proportion to his deeds.

## CHAP. X.

## ON INDEMNIFICATION.

SEVERAL topics, which either have been cursorily noticed in the foregoing chapters, or are immediately deducible from the principles which have been maintained, may not improperly receive distinct consideration. They involve very material points of moral duty: and it is consequently of importance that their true nature should be accurately understood. The subjects to which I allude are indemnification, punishment, slavery, property, and engagements.

By indemnification is meant the receiving of an equivalent for an injury sustained.

The right which an injured person has to indemnification, and the means by which it may justly be enforced, have  
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already been shewn in a former chapter. The manner in which the claim is to be satisfied according to the principles of natural justice will appear from a review of the following cases.

1st, Let us suppose the party aggrieved to have been injured in his property alone, and the aggressor to be possessed of property sufficient for the purpose of compensation. Under these circumstances the fit mode of retribution is obvious.

2dly, But if the aggressor is destitute of property, or unable, even by the surrender of his whole substance, to satisfy the just demand of the man whom he has injured; how is he to complete the equivalent? He must appropriate to the use of the latter such a portion of the other gifts which God has bestowed upon him, such a portion of his strength, or of his industry, or of his skill, as will answer the remaining claim. What he cannot pay with his property he must pay with his service.

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- In this case, although the injured person may compel the aggressor to perform the requisite service ; yet he has not necessarily a right to oblige the innocent family of the latter to co-operate in it. Their co-operation however may be required, if that step be needful, to the extent in which the aggressor is possessed of a right to their labour : since all his actual rights are subject to the unsatisfied claim of the injured party.

3dly, Suppose the injured party to have incurred expence and loss of time in the defence of his rights, or in endeavours necessary for the recovery of them. Are these circumstances to be taken into the account in computing the reparation due ?

These are injuries brought upon him by the wilful act of the assailant. The sufferer has consequently a right to be indemnified. The particulars are reducible to computation ; and an equivalent in property, or in service, may be precisely

ascertained. Of course the reasoning on the foregoing cases is applicable to this case also.

4thly, Suppose the party aggrieved to have undergone bodily pain or injury, or severe anxiety of mind, in consequence of the attack which he has sustained.

He had originally the same title to freedom from injury in these points as in his property; and consequently has the same right to indemnification in the one case as in the other. And indemnification in these, as in all, instances must be rendered in property, or in service.

It is evident that in the case of individuals unconnected by political ties, where the person who had received the injury would judge for himself of the requisite compensation, as well as enforce the discharge of it, the exercise of this right would be pushed to unwarrantable lengths, and marked with caprice, violence, and outrage.

rage. It is equally evident that the computation of a fair equivalent, for the injuries now under consideration, would be a matter of no small difficulty even to an unprejudiced by-stander. But these circumstances do not invalidate the right itself, however they may indicate the duty of caution in the exercise of it. A right does not cease to be so because it may be abused ; nor because the demand which it authorises in particular instances may not easily be ascertained with precision. Yet the computer is not entirely without landmarks to direct him. He may discern this recompense to fall short of what may fairly be claimed, and that to exceed it. A basket of apples would be an inadequate compensation for the loss of a finger ; and a herd of oxen might be more than an equivalent. He is to discover, as nearly as may be, the just medium between the two extremes : and he is answerable to his Maker for an impartial judgement.

Indemnification may be demanded for the injuries sustained by the family of the party aggrieved in consequence of the attack made upon him, as far as the aggressor must reasonably be supposed bound to have foreseen that they would, or probably might, take place. For so far they must be considered as intentional injuries. This reasoning applies with still greater force, where they are known to have been intended.

In each of the preceding cases it is possible that the injury sustained may be so great, that all the existing rights of the aggressor, which, when transferred, would be valuable to the sufferer, may fall short of being a fair compensation for it. While circumstances continue in this state, the latter cannot be fully indemnified. But he retains a right to exact the remainder of the debt, whenever the assailant shall be enabled, by a change in his situation, to discharge it.

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With respect to enforcing or waving the right to indemnification in any particular case or degree, the injured person is bound in the sight of God to adopt that line of conduct, which he apprehends will, on the whole, most effectually forward the purposes of his being. And in forming his judgement on this point, the advantage of the aggressor with respect to the purposes which he also was created to accomplish, ought to be considered with impartiality and kindness; and should procure for him every degree of forbearance, which, under all the circumstances of the case, the injured party can shew to him consistently with prudence and other duties.

The manner, in which the right to indemnification is modified by the institutions of civil society, will be explained hereafter.

## CHAP. XI.

## ON PUNISHMENT.

**H**E who has obtained, by restitution or indemnification, complete satisfaction for the injuries which he has suffered, has no further claim on the aggressor, except for security against future violence, when it is on good grounds supposed to be intended. He has the same claim upon any man whom he believes to meditate an invasion of his rights, although he may never have invaded them hitherto. And it has already been proved, that according to the principles of natural justice, every man has authority from God previously to deprive another of the gifts conferred on him by Providence, or to restrain him in the use of them, so far as is necessary for securing himself from the proposed attacks of the latter: in other words, that every man, who has sufficient reason to believe that another individual meditates an unjust attempt against him, has

has a right to inflict on that individual such punishment as is necessary to prevent him from prosecuting his design.

In some cases security cannot be attained without inflicting such a punishment as absolutely deprives the aggressor of the power of committing the meditated outrage. In others, (and these, fortunately for mankind, are the more numerous,) the end may be sufficiently answered by measures less violent; measures which, in all probability, will deter the criminal from prosecuting his purpose, though they do not proceed to the extent of disabling him from accomplishing it.

Since the right of punishment is merely a branch of the right of defence against an aggressor, it follows, from the positions which were established in the discussion of that right, that it may be exercised, if occasion requires, by any individual on behalf of another, against whom an unjust attack is commenced or meditated, whenever the  
assistance

assistance of the former is naturally due to the latter, or is desired by him ; and also whenever the former apprehends that the defence of the latter is necessary for his own present or future security.

The justice of human punishments can originally be maintained on no other principles than those on which it has been asserted in the present chapter. It has indeed been sometimes maintained on other grounds, which a very few words may shew to have been wholly unsubstantial and delusive.

To punish by way of inflicting vengeance for crimes is to usurp the prerogative of God,

The idea of inflicting punishment by way of indemnification, or in lieu of it, is too plainly erroneous to merit much attention. Punishment, as such, can never constitute indemnification : inflicted with this view, it must be nugatory, and  
would



would therefore be an unauthorised attack. It may, however, be imposed when it is necessary for the recovery of indemnification from an aggressor, who refuses the satisfaction which he owes, and is able to give.

Of all the unfounded notions respecting punishment, no one is so prevalent as the idea, that natural justice, independently of political institutions, authorises the infliction of it on criminals for the purpose of deterring others from becoming so. The assertion of a right to punish on this ground is directly repugnant to the principles, which have been already established; and indeed is never supported by any thing which has even the semblance of solid argument. The source of the error appears to have been the want of discriminating between the right of inflicting punishment, and another right totally distinct from it, namely, that of selecting one particular *mode* of punishment rather than another. No man can justly be *punished* for the *purpose*

*purpose* of deterring others from offending: for that would be to punish him not for his own fault, (the only ground on which the justice of human punishment can originally be rested,) but either for no man's fault, or for that of others. On the other hand, if two or more *modes* of punishment, severally justifiable according to the principles which have been stated above, suggest themselves to the mind of the person injured, either of which would answer his purpose; he is not only at liberty, but he is also bound in the sight of God to adopt that mode, which appears to him the most likely to deter others from engaging in criminal undertakings. Instead of being punished with stripes, let the offender be bound to a tree by the wayside, characterised by symbols of his guilt; if the dread of disgrace appears more likely than the apprehension of corporal chastisement to impress the spectators with abhorrence of the crime, and to promote their perseverance in the course of duty,

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It is also the duty of every man in the sight of God to exert the right of punishment, or to forbear from exercising it, in any particular instance, accordingly as he is persuaded that such exertion or forbearance will most effectually promote the great purposes of his being. And in forming his judgement on these points, as well as in determining the mode of punishment to be adopted, it is his duty to consult the present and future welfare of the aggressor, and of those who are dependent on the aggressor, as far as is consistent with the other considerations which are to be taken into the account.

The influence of political institutions on the right of punishment as established by natural justice will be noticed in a subsequent chapter.

## CHAP. XII.

ON SLAVERY.—APPLICATION OF THE PRINCIPLES WHICH HAVE BEEN ESTABLISHED TO THE AFRICAN SLAVE-TRADE.

**B**y slavery is meant the condition of a person, who is compelled to labour at the will of another, without any previous contract.

Agreeably to natural justice, an individual may be reduced by force to this condition on two accounts :

1st, For Indemnification.

2dly, For Punishment.

The causes which may entitle one man to force another into slavery, for the sake of indemnification or of punishment, and the circumstances which should determine him to exert or to wave his right, have  
already

already been discussed in the two preceding chapters. The slavery in these cases must cease as soon as the just purposes for which it was imposed are obtained. Until these are accomplished, the right of the imposer remains unaltered.

The exercise of this right during the whole, or any part, of its continuance may be transferred, in the same manner and on the same grounds according to which other rights are transferable, by the possessor to another person. It is however obvious that the transfer can convey no just power beyond either the extent or the duration of the right, which existed in the former owner. Nor does the valuable consideration, which may be given for the slave by the new possessor, make any alteration in that respect. The buyer cannot acquire that, of which the seller has no right to dispose.

No man can be justified in wilfully contributing, either in the capacity of purchaser,  
or

or of agent, or in any other way, to detain persons in slavery who have *in fact* acted in such a manner as completely to vindicate the condition in which they are held; unless, previously to his taking a single step for that purpose as purchaser, agent, or otherwise, he is convinced in his conscience on grounds sufficiently strong that such is the case. In a contest between two individuals, should you be justified in assisting one of them to bind, maim, or kill the other, though actually the aggressor; unless it were previously shewn to your satisfaction that he was so, and that the violent measure proposed was necessary for the defence of the injured party? The application is easy.

That he who has taken his enemy captive in a conflict has a right to doom him to slavery, is by no means a necessary consequence. It is idle to say that he might take the life of his conquered antagonist, and is therefore merciful in exacting only his labour. Let him establish the premises  
before

before he deduces the conclusion. The only way in which he can establish them is by proving the death of his prisoner to be requisite for the reasonable security of himself, or of those whom he has a right to protect, against future injuries apprehended on sufficient grounds from the other. It is almost needless to observe, that such a plea can very rarely be alleged with truth by warriors of any age or nation, who consult their reason rather than their passions: and that reflections on the interested motives which are likely to suggest it, and a deep sense of the value of life to each individual, ought to prevent it from being admitted in any possible case, without the fullest proof of the necessity described. The argument stated above is that, which is generally urged to vindicate the enslaving of prisoners taken in war. But let it ever be remembered, that all which the conqueror can claim from his captive is reparation for past injuries, and reasonable security against future violence. If he finds it essential to the attainment of these ends that the other

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should

should be reduced to slavery for a longer or a shorter time ; he has then, and then only, a right to enslave him. The right, however, is neither created nor extended by the fact of his having captured the other party ; though that is the incidental circumstance which enables him to exert it.

The positions which have been established will furnish a ready solution of the doubts not unfrequently entertained, whether slaves retain a right to acquire or to hold property. The state of slavery does not necessarily involve the forfeiture of those natural rights. If the just ends of indemnification and punishment cannot be accomplished without depriving the slave of them, as well as of his liberty, they may be taken away. Otherwise, he continues to possess them.

If the slave refuses to render to his owner the labour, which is actually his due ; it may justly be exacted by the use of all requisite punishment.

In



In no case can the master have a right to the labour of the guiltless family of the slave further than the slave himself is entitled to it. Whatever right the slave may possess to the service of his children is liable, like any other of his rights, to be forfeited; and may be claimed and exercised by the master, as far as he finds that measure necessary for securing the just purposes of punishment and indemnification, which the former aggressions of the slave entitle the other to carry into effect. But this is the only ground, on which the master can with justice claim authority over the unoffending family of the slave. And the authority asserted on this ground by the master necessarily terminates with respect to each particular child, as soon as that child attains to such an age as no longer to be subjected by nature to the dominion of his parent.

This reasoning applies with equal force to the case of children born during the slavery of their parents. The master can-

not derive from the latter more extensive or more durable rights than they themselves possess over their offspring (c).

If the master, shifting the ground of argument, pleads that he has maintained the child from infancy to manhood, and not from gratuitous charity, but with a view to a proper recompense; let him be reminded, that he has received in return the labour of the other during that period. But he replies, that "the labour has been an inadequate return; and that he has at least a right to exact the services of the child when grown up, until he

(c) The maxim, "*Partus sequitur ventrem*," which has been adopted into the legal institutions of some countries, evidently ceases, according to the principles of natural justice, to have any binding authority, when the child attains to such an age as to be no longer subject by nature to the dominion of his mother. After that period, whatever validity there is in the maxim itself, or in the practical consequences derived from it, must rest on the institutions of civil society. But a person, who should undertake to establish the justice of them in this particular, would in many instances find himself engaged in a task impossible to be accomplished.

"has

“ has obtained a reasonable indemnifica-  
“ tion. For the infant having no prospect  
“ of being supported by any other person,  
“ it must be presumed that, had he been  
“ able, he would gladly have consented to  
“ secure a maintenance on the terms of  
“ making an equitable compensation when  
“ he should have it in his power.” Why  
does not the master assert, that the other,  
had he been able, would have consented to  
secure his existence on *any* terms; and  
claim a right to detain him in *perpetual*  
bondage? Why does he not affirm that  
he has a right to enslave any man, whom  
he has chanced to preserve from drowning?  
No consent was or could be given in  
either case, nor any right conveyed. What-  
ever debt of gratitude may have been in-  
curred, that is a kind of debt which con-  
fessedly is not to be recovered by com-  
pulsion. In each of these instances, if  
assistance was given to the distressed party  
*from proper motives*, one of the most sacred  
duties which a human being can owe  
to his Maker, and one of the greatest acts

of benevolence which man can render to man, has been performed. But if the object of this benevolence should refuse all acknowledgement of the kindness, his benefactor must satisfy himself in this world, and well may he be satisfied, with the conscious approbation of his own heart, and look forward to another for his complete reward,

Hitherto the rights of the master have been stated. It remains briefly to mention his duties. Not having a right to endanger the life or health of the slave, except so far as the danger is the unavoidable consequence of the reasonable service of the latter ; he is obliged in justice either to provide food, clothing, and other necessities, for the slave, or to allow sufficient time and opportunities for the other to provide them. He is also bound in the sight of God to consult by benevolent precautions in his general conduct the preservation of the health of the slave, and the recovery of it when impaired ; and

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particularly to superintend his morals, and to furnish him with the means of religious instruction ; to treat him on all occasions with kindness and forbearance, more especially to be mild in exacting labour and inflicting punishment ; and not to give or to sell the slave to any person, whom he does not think likely faithfully to perform the duties of a master.

The end for which moral principles are investigated is the direction of human conduct. During our investigation of them, their final object ought ever to be kept in view ; and no fit opportunity should be omitted of pointing out their bearings on topics of importance, especially on such as are agitated at present. The positions, which have been investigated in this chapter, can never be more properly applied than to the elucidation of the question now before the British Legislature, concerning the abolition of the African Slave-trade. I shall therefore apply them to that subject,

with the brevity which is required by the limits of my general plan.

It appears then, that those writers, who have contended that a state of slavery cannot be reconciled with justice, and that the possession, the sale, or the transfer, of a slave, is in every instance an act of usurpation, have proceeded to much greater lengths than sober argument will vindicate. It would in truth have been as reasonable to maintain that all penal measures, and all transfers of rights, are unjust. For if natural justice permits a man to be deprived, in certain cases, of his limbs or of his life ; can it universally forbid the exaction of his labour ? And if one man is entitled to the service of another during any given period ; does not justice allow him to give or to sell that right, like any other of his rights, to a third person ?

For the just purposes of indemnification and punishment slavery may be imposed,

Who-

Whoever therefore has *honestly purchased* from the *proper owner*, either in Africa or in the West Indies, a slave, whom, after *serious enquiry*, he *believes in his conscience* to have been *deservedly* condemned to that state for either of these ends, has not violated justice in the transaction. Nor, supposing that his conviction continues, and that he faithfully discharges the duties of a master, will he act unjustly in exacting the labour of the slave during the term for which he was condemned (whether it were for a limited period or for life), nor in disposing of him for the whole or any part of the term to any other person, whom he has reason to think disposed and likely to treat the slave properly.

But whoever has defrauded the former owner of a slave in the original purchase; whoever has accepted or exercised a power over the liberty of another, without having made full and impartial inquiries whether that liberty is justly forfeited, and is also justly at the disposal of the seller; or with-

out

out being convinced in his conscience that the fact is so; whoever detains the slave in bondage directly or indirectly a moment after that conviction has been done away; or a moment after the conclusion of the time for which the slavery may justly be continued; whoever does not faithfully discharge the duties of a master, or transfers his slave to another whom he does not think likely to discharge them, commits in each of these cases a flagrant sin against God: and, in most of them, as flagrant an act of injustice to man,

Now are any of the indispensable requisites to the acquisition of a just title to a slave scrupulously attended to on the coast of Africa? Are any of them, except it be the honest payment of the price, attended to at all? Does the purchaser make a conscientious inquiry, or does he make any inquiry whatever, into the fundamental points, whether the liberty of him who is exposed to sale be justly forfeited, and also be justly at the disposal of the seller?



feller? Can he, who has bought a thousand slaves, point out any five of them, with respect to whom he has sufficient reason to believe this to be the case? Does he not know that the wretched beings whom he purchases, are almost universally the victims of avarice, treachery, and rapine: that nearly all of them have either been kidnapped by their countrymen and relations; doomed to bondage from their infancy by laws radically unjust; seized without provocation by their own princes; adjudged to slavery for pretended crimes, or for offences altogether undeserving of such a punishment; stolen by the immediate emissaries of Europeans; or captured in wars commenced at the instigation of Europeans for the purpose of obtaining slaves?

But some of these facts are controverted or denied. Let those who distrust them read with an unbiaſſed judgment the evidence on both ſides which has been laid before the public, and their doubts will probably be ſatiſfied. Whether this be  
the

the case or not in every particular, let them in the next place reflect on the propensities of the human mind, and on the information which history affords; and say, whether the facts above mentioned are not consequences which must be expected naturally and uniformly to take place among uncivilised nations, inflamed with a passion for foreign merchandise, while slaves are the articles with which it must be purchased.

As these enormities are countenanced from interested motives by the numerous independent Princes of Africa, whom it is not possible that British Legislatures can control; and as they ever will be countenanced as long as those motives exist; it is evident that the African slave-trade is, and, from the nature of things, ever must be, a trade radically and systematically deriving its support and its very existence from unbounded oppression and injustice.

This single circumstance, exclusive of the additional weight which it may derive  
from

from other considerations, is sufficient to prove that the trade ought instantly and universally to be abandoned; and, as the conscience of private individuals appears, by melancholy proof, unable to restrain them from entering into it, that it is the duty of our Legislature, both to God and man, by an immediate act of abolition to prevent those at least, who are under its jurisdiction, from acting either as principals, abettors, or accomplices, in a system of such flagrant, extreme, and incurable iniquity.

Those, who have contended for the abolition of the Slave-trade solely or chiefly on the ground of humanity, have evidently narrowed the basis on which their cause ought to rest, and have neglected the strongest argument in its favour. I know that humanity has more popular attractions than justice. Attention to the former seems to imply spontaneous merit: observance of the latter is regarded as the constrained discharge of a debt. It should however

be remembered, that the suggestions of humanity may in some cases oppose each other ; and may perhaps be fairly counter-balanced or outweighed by different considerations. The demands of justice are always consistent with themselves; and may on no plea whatever be disobeyed.

But let me not be supposed to intimate, that there are no arguments of importance to be urged for the abolition of the Slave-trade besides those which are dictated by justice. There are arguments suggested by a regard to humanity and other duties, which of themselves ought to determine the Legislature instantly to enforce that measure, if all considerations of justice were omitted.

By the Slave-trade we necessarily contribute, to the utmost of our power, however we may regret, or may affect to regret, the circumstance, to retain vast regions of Africa, many times larger than Great Britain, in a state of barbarity and ignorance ;

rance ; to arm every man's heart and hand against his neighbour ; to destroy the security, and poison the comforts, of domestic life, by keeping every individual in momentary fear of being seized by a lurking enemy, or even by his own kindred, and hurried on board a slave-ship ; to foment continual, bloody, and unprovoked wars ; to encourage the savage tyranny of the Princes, and direct it against their guiltless subjects ; to perpetuate the most iniquitous laws and institutions ; and to prevent the diffusion of the religion of Christ. Who will lay his hand on his heart, and affirm, as in the sight of God, that the purchase of the greatest advantages, private or national, could be justified on such terms for a moment (d) ?

I shall

(d) The flourishing and happy state of many countries on the coast of Africa before the Slave-trade was introduced there by the *christian* nations of Europe, and the truly miserable condition to which by means of the Slave-trade those countries have been depressed, are clearly shewn in a tract entitled " Historical Sketches of the Slave Trade, by the Right Honourable Lord Mun-  
" caster,

I shall not dwell on the injuries and calamities which the slaves experience on their passage

"after, 1792." That the Slave-trade was *created* by the Europeans, is confessed by those who from the business in which they were engaged would of course be little disposed to recognize the fact. A gentleman, *employed by the Royal African Company* in 1726, expressly says, "The discerning natives account it their greatest unhappiness, that they were ever visited by the Europeans. They say that we Christians introduced the traffic of slaves, and that before our coming they lived in peace; but, say they, it is observable that wherever Christianity cometh, there come with it a sword, a gun, powder and ball." *Historical Sketches*, p. 5, quoting from *Smith's Voyage*, p. 266. Let those who are Christians in reality, as well as in name, draw the proper lesson from these words. It ought never to be forgotten, that when Captain Hawkins, who seems to have been the first Englishman that enrolled his name in the annals of villainy as a Slave-trader, had made a piratical kidnapping voyage to Africa, Queen Elizabeth, having heard of it, sent for him, and expressed her deep concern lest any of the African Negroes should be carried off without their free consent; *which, she declared, would be detestable, and could not fail to call down the vengeance of Heaven.* See *Historical Sketches*, p. 13. Whatever we may hear professed, and whatever specious sophistries may be urged for the continuance of the Slave-trade, the real truth is, that the secret principle which most commonly influences the advocates for that trade (though in many cases it is undoubtedly unperceived by themselves) is an eager desire of clinging to villainy deemed politic and advantageous;

passage to the West-Indies, and after their arrival there (though they result from the trade, and in spite of all regulations will to a great degree be coeval with it), because an investigation of them would swell this part of the work to a disproportionate size; and because, if they were completely removed, the arguments already adduced would still be decisive. It may be useful however briefly to notice the principal grounds, on which the abolition is resisted.

1st. It was shamelessly asserted a few years since that the Negroes are a race essentially distinct from Europeans, and infe-

tageous; or, in other words, an almost absolute determination not to obey the unequivocal dictates of moral and Christian duty, when they seem to require the sacrifice of interest. It is the principle which spoke out plainly by the mouth of the Dutch merchant, who, when reproached by the Prince of Orange for supplying the enemy with ammunition to be employed against his country, replied; " Monseigneur, si on pouvoit faire par mer quelque commerce avantageux avec l'Enfer, je hasarderois d'y aller bruler mes voiles." " If it were possible to carry on by sea any lucrative commerce with Hell, I would go thither at the hazard of scorching my sails." (Voltaire's Age of Louis XIV. Amsterdam, 1771, Vol. I. P. 393.)

rior to them. The assertion is even yet occasionally heard, though it is equally unphilosophical and unchristian. For, does not historical experience teach us that complexion depends almost entirely upon climate, and talents on civilisation, as clearly as the Scriptures affirm, that God (c) made of one blood all the nations on the face of the earth? But, were the Negroes proved a distinct and an inferior race, should we have on that account a right to enslave them? When God has seen it fit to give us our rights over animals by express declarations in the Scriptures; and has thereby instructed us that we should not otherwise have been authorised to exact their labour; would superiority of nature have entitled us to exercise authority over a Negro, which would have been usurpation if exercised over a brute?

2d. But we are told that the Negroes are the descendants of Ham, and therefore de-

(c) Gen. ix. 19. Acts, xvii. 26.

voted



voted to slavery. The doom of servitude is denounced in the Scriptures only against the posterity of Canaan, who, I presume, is not conceived by any one to have been the progenitor of the Africans. I will not waste the reader's time in shewing how futile the argument would have been, had Canaan been the founder of their race.

3d. Another plea for the continuance of the Slave-trade is sometimes urged on pretended grounds of justice. It is alleged that, as the West-Indian owners have purchased and improved their estates under the expectation of cultivating them by Negroes obtained from Africa; the Legislature of this country, by professedly encouraging the cultivation of the islands, has entered into an implied engagement with the planters to permit the continuance of the Slave-trade. No such implied engagement was ever in contemplation. And the most explicit engagements to that effect, had it been true that such had ever been entered into by our Legislature, would not

have been binding: since they could not have been performed without radical and flagrant injustice to the Africans, the invasion of whose rights the British Government never was, nor ever can be, authorised to promote.

4th. The Slave-trade, and all its horrors, are sometimes vindicated on the plea, that the Negroes, being treated with the greatest kindness in our colonies, are much happier in their slavery and exile than they would have been in the enjoyment of liberty at home. And as a proof of this singular circumstance, we are told, that free Negroes in the West-Indies have refused the offer of returning to their own country. It would indeed be extraordinary if a Negro should abandon Jamaica, where he had at length acquired connections, property, and freedom, for the sake of revisiting Africa, where he would find himself friendless, forgotten, and disregarded: when he must also know, that if he should escape the not improbable event of being sold to some  
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European on the way, he might reasonably expect to be seized again in his own country, as he had been before ; be again constrained to encounter the miseries of the middle passage ; and be returned a slave to the island, from which he had set sail exulting in his liberty. Let us however allow the advocates for the Slave-trade the full advantage of their absurd and incredible plea, that not only the free Negroes, but even the slaves, are happier in our islands than they would have been in Africa ; a plea which, were it true, would of itself decisively establish the miserable state to which Africa is reduced by the traffic, which they strive to vindicate : but let us in our turn require them to prove, that they have a right to enslave others for the purpose of making them happy. The existence of any such right has been sufficiently disproved in a former chapter ; and would not very readily be admitted by those, with whom we are contending, if it were claimed by a Negro over themselves.

But the Negroes in our colonies are treated with kindness! That they are thus treated by many masters I doubt not. Let it be admitted that they are so treated by all. Is this circumstance then urged, seriously urged, as a vindication of the continuance of the Slave-trade? Let the highwayman plead in his defence that he only robbed the traveller, and did not murder him. Let the horse-stealer allege that he has ridden with moderation, and fed sufficiently, the animals which he carried off. Let a court of justice accord to these pleas not merely pardon for past crimes, but an express license to repeat them. And then, and not till then, let the man-stealer, let the receiver of men knowing them to be stolen, insult the common sense of the British Parliament by demanding a licence to continue his depredations, on the plea that he has neither starved nor flogged to death the wretches whom he has enslaved.

5th. Finally, it is affirmed that, while the Slave-trade is continued by other nations,

nations, the abolition of it on the part of Great Britain would produce no alleviation of the miseries of Africa, and would destroy a principal source of the revenue, naval strength, and prosperity of this kingdom; and consequently, that we are justified in pursuing the trade, at least until a general abolition shall be decreed by the Powers of Europe.

This argument is frequently urged by men, from whose understandings and virtues better expectations might have been formed.

That the abolition of the Slave-trade on the part of Great Britain would be likely to produce a most important alleviation of the calamities of Africa, is a position which it would be very far from difficult to maintain. And that it would materially conduce to the prosperity both of Great Britain and of her dependencies, is a position which has been uniformly maintained by those, who, from their situation, ought best to understand the sources of our national strength, and are

of all men the least likely to wish to have them exposed to hazard, with arguments which have not yet been disproved. But let both the facts be allowed, precisely as they are stated by the friends of the Slave-trade.

Have we then a right to join in rendering Africa miserable, because others would still harass her though we should refrain? If an act of villainy will at all events be committed, is it a matter of indifference to me whether it be committed by another or by myself? Would my reader think himself justified in bearing a part in a scheme to plunder or defraud an European, by the plea that, if he were to decline the offer, a bystander was ready to supply his place? Can he then, either as a private man or as a legislator, abet a systematic plan of injustice and fraud directed against the freedom of Negroes, and be innocent? On such a plea the smuggler, the thief, the assassin, every criminal of every description, might claim a plenary indulgence for his enormities.

But

But the interest of the kingdom requires the continuance of the trade!

And are we at liberty to try to support the interest of the kingdom by depriving unoffending foreigners of their rights; by an uniform succession of outrages against humanity and justice? If there be a Power in heaven who decides the fate of nations, can we think it likely, can we suppose it possible, that villainy will be permitted to promote the national welfare? What would have been robberies and murders if committed by single highwaymen, are they not still robberies and murders, though the perpetrators have previously coalesced into a troop, a society, or a nation? It is a momentous truth, and a truth little regarded, that the rules of morality are as binding on nations as on individuals; and that our obligations as Englishmen are subordinate to our duty as Christians.

I would in the last place ask those who allege the general argument stated above,  
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what their sensations would be, if they or their children were captured and carried slaves into Morocco ; and were told by the tyrant of the deserts, that the depredations of his corsairs were in truth most grating to his feelings ; and that he would assuredly put an end to them, if he did not foresee that they were requisite for the welfare of his realm, and that he could not obtain the concurrence of his brother of Algiers.

I cannot conclude without expressing my ardent hope that, if the present attempt to abolish this disgraceful commerce should by any means, or in any degree, be rendered abortive, the friends of the abolition will seize every favourable opportunity of again bringing the subject before the Legislature, until their efforts are crowned with that complete success which such a cause deserves, and is sure finally to obtain. In the mean time it behoves the reader to reflect that the guilt of the Slave-trade, now that the true nature of that traffic is fully known, is by no means confined to the persons



persons who are engaged in carrying it on, and those who purchase the miserable cargoes in the West Indies. A portion of it rests on every inhabitant of this country, whatever his station may be, who wilfully omits any one proper method, which that station affords him, of contributing to the immediate extinction of the trade. He is before God an accomplice in the crime, who will not do his utmost to prevent it.

The emancipation of the Negroes now in the islands, a measure with which, through ignorance or artifice, the abolition of the Slave-trade has been repeatedly confounded, is by no means necessarily required by the principles which I have endeavoured to establish. In a former chapter it was shewn that slaves, who have been unjustly reduced to their present condition, may yet be detained in it, as long as there is sufficient reason to believe that their liberty, if restored, would be employed in acts of outrage and revenge.

## C H A P. XIII.

## ON PROPERTY.

**I**T has already been proved that every man has originally a right, by the gift of God, to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence,

In the early ages of society, the first and most obvious exercise of this right would be the acquisition of food, of shelter, and of clothing. To this would succeed the fabrication of rude utensils and weapons.

The right however extends beyond the bare productions of the soil. The soil itself forms a part of the common stock provided by the Supreme Being for the benefit of mankind: and any unappropriated spot may be taken and occupied by each individual as his own exclusive possession, so long

long as that exclusive possession is requisite for his comfortable subsistence, or for the comfortable subsistence of the family committed by nature to his protection. The same wants, which, in consequence of being an evidence of the will of God, convey to any one a title to a certain portion of the fruits of the earth, in like manner give him a title to a certain portion of the earth itself. He has the same incontestable right to the unmolested enjoyment of the spot of ground, which he has occupied with his tent, with his grain, or with his flocks, as he has to the spot on which he is standing, or to that on which he lies asleep.

He therefore, who, in consequence of these wants, has taken possession of a vacant cavern for his habitation, and of the adjoining unoccupied hill for the pasturage of his cattle, has authority from God to defend them against every aggressor. But of the right of which necessity indicates the existence, necessity indicates the limits.

limits. He has no claim to a greater extent of land than is requisite for the comfortable subsistence of himself, and of the family, the flocks, and the herds, which God has given to him. If a savage, before America was inhabited, had been driven in his canoe from Iceland to Labrador; he would have had an indubitable right to the exclusive possession of such a district round his hut as was necessary for his support. But he would have had no right to object to future strangers settling on a distant part of the coast, on the plea that he was the first occupier of that quarter of the globe, and that he stood in need of the whole continent for his hunting-ground.

The cavern, however, and the hill, the flocks, and the utensils, and whatever other articles of property had not been previously transferred by gift to some other, and become his actual right, must revert, on the dereliction or death of the owner, to the common stock, and be open to the next occupant. The right of the original possessor

feffor was founded on his need, and extended only to the use, of them: and being voluntarily abandoned on his dereliction, or extinguished together with the need and use at his death, no longer exists after either of those events, and consequently cannot be transferred.

It cannot be said that the late possessor had by his will, supposing him to have left behind him some memorial of his wishes, transferred the right previously to his death. For at any period during the remainder of his life he might have destroyed or have altered the will at his own pleasure.

Neither can it be alleged, that, as the testator made the offer during his life, while the right was indubitably his, the acceptance of the legatee, after the decease of the former, completes the transfer. Not to insist on other objections to which this reasoning is liable, it may be sufficient to observe, that the rights of the testator, terminating at the moment of his death, and  
con-

confessedly not having devolved to the other party previously to the completion of the supposed transfer by acceptance, must have ceased to exist before the period, when this transfer of them is said to take place.

The end, which in civil society is answered by wills, might be attained, antecedently to social institutions, or in imperfectly civilised countries where testamentary bequests are unknown, by another method of proceeding. A father, for example, might give to his son the property, which he wished the latter to possess after his own death; and might secure to himself, if he should think fit, the enjoyment of it in the mean time, by making the donation on the express condition, that his son should permit him quietly to possess the property in question as long as he should live. Were the offer accepted by the son during the life of the father, the transfer of the right would immediately take place. It is however obvious, that such a transaction would be specifically

specifically distinct from a testamentary bequest.

Some writers on Moral Philosophy contend, that, independently of social institutions, those movables which are to a great degree the produce of a man's personal labour, as his tools, weapons, and other similar possessions, might be disposed of by will. The ground on which they rest the argument is this; that the owner has employed his own labour upon them (*f*), and has inseparably mixed it with them (*g*), thereby giving them a great increase of value, which increase is inseparable from the whole value, and amounts to a considerable portion of it.

The foregoing reasoning, notwithstanding the respectable names by which it is sanctioned, rests on unsubstantial foundations. No man can prove any just title originally to appropriate to himself either

(*f*) Elements of Moral and Political Philosophy, vol. i. p. 221.

(*g*) Ibid. p. 115, 116.

flocks, herds, and fruits, or any productions of the earth, (whether as materials for his weapons, utensils, and movables, or for any other purpose,) nor consequently to retain them afterwards, whatever alteration he may have wrought in them by his labour, except the right which arises from their being necessary for his comfortable subsistence ; a right which is inevitably extinguished by his death. No man by exerting his labour upon that which is not his own can acquire a title to it : nor, by labouring on a substance to which he has a title only for a limited time, can he render that title permanent, whatever may be the additional value which the material may receive from his operations.

If the arguments advanced in support of the position, that an individual has a natural right to dispose of his movables by will, possessed any real force ; they would prove him to have the same right to bequeath land, which he has reclaimed from barrenness to fertility.



fertility. But this is a right which they who advance the arguments do not (b) usually design to confer upon him.

The

(b) Dr. Paley indeed consistently maintains, vol. i. p. 116, though at the expence of subsequent consistency, that land under these circumstances becomes the property of the cultivator as absolutely as the utensils are which he has manufactured. He adds, that the individual, who thus improves it, does not thereby acquire a right to it in perpetuity, and after this cultivation and all its effects are ceased. It follows however, according to his statement, that the improver may, by will, convey to another a right over it for the period during which the effects of his labour shall continue. Yet he afterwards proceeds (p. 222) to establish the opposite conclusion, and to establish it on principles which admit of no exception, that land, previously to the institutions of civil society, cannot be disposed of by testamentary bequest. He there argues on this subject nearly in the manner which I have adopted, affirming that "in a state of nature a man's right to a particular spot of ground arises from his using it and wanting it, consequently ceases with the use and want; so that at his death the estate reverts to the community, without any regard to the last owner's will." Yet it is proper to observe that these arguments, though entirely just, are arguments to which he can give no weight consistently with his own fundamental principle. He ought to have confined his researches to the single point, whether the existence of the right of bequeathing land in a state of nature would, or

The true state of the case is, that the right of disposing by will of property of any kind can be established only on the ground of social convention. The manner in which that right is created, and the mode of its operation, will hereafter be noticed in the proper place.

The principles which have been deduced in the present treatise clearly disprove the existence of a right (its existence, let me be understood to mean, considered as independent of the institutions of civil society), which various moralists have supported; that is to say, the right of extreme necessity.

would not, promote the happiness of mankind. If this question be determined in the affirmative, he must maintain the existence of the right, in defiance of the arguments by which he has disproved it.

It is to be observed that, in asserting the right of bequeathing movables, Dr. Paley has paid no more attention to general expediency than he has done in disproving the right of bequeathing lands. The reader, who has perused his work attentively, will have perceived that it is not uncommon with him to lose sight of his fundamental principle, and to argue on other and less fallacious grounds.

This

This is defined to be (i) "a right to use or  
"destroy another's property, when it is  
"necessary for our own preservation to do  
"so." And as an instance of it is men-  
tioned "a right to take, without or against  
"the owner's leave, the first food, clothes,  
"or shelter, we meet with, when we are in  
"danger of perishing through want of them."  
And it is asserted to be "a general right, as  
"it is incidental to every man who is in a  
"situation to claim it."

In the first place, it may be observed that the able writer here quoted has adduced no arguments to prove the only fact, which, according to his fundamental position, can demonstrate the existence of the right; namely, that to arm every man with authority to deprive others of their property, whenever he imagines that property to be necessary for his preservation, would promote the happiness of mankind. How would it appear, were we to argue on his

(i) Elements of Moral and Political Philosophy, vol. i.  
p. 102.

own principle of expediency, that this is a case "in (*k*) which the particular consequence exceeds the general consequence;" and that "the *remote* mischief resulting from the violation of the general rule is overbalanced by the *immediate* advantage?"

In the next place we may ask, for the preservation of *what* particular objects this right may be exercised. Of life only? By no means; but of property also. For every man is pronounced authorised on *this* (*l*) principle, independently of any social compact, to pull down a neighbour's house against his consent, for the purpose of stopping the progress of a fire. Can it be said then that there is any kind of property for the security of which it may not be exercised? If it may be exercised for the preservation of property, why may not it be exercised

(*k*) Elements of Moral and Political Philosophy, vol. i. p. 103. The reader may recollect a quotation already given from the same work, that, "in computing consequences, it makes no difference in what manner or at what distance they ensue."

(*l*) Ibid. p. 102.

by any man for the security of what is dearer than property, his health? of what is dearer than life, his good name? Why may not he forcibly possess himself of the house of another, should he be persuaded that his desire for it, if it be not gratified, will bring upon him death, or delirium, or melancholy? Why may not he seize his neighbour's purse, that he may be enabled to silence a venal calumniator, who threatens the ruin of his character? In short, if the right be admissible in any one instance, where and on what principle is the line to be drawn?

A material question is yet to be proposed to the defenders of the right under discussion: on what foundation is that right supported? "The foundation of the right," its advocates reply, "seems to be this; that, when property was first instituted, the institution was not *intended* to operate to the destruction of any; therefore, when such consequences would follow, all regard to it is superseded." The insufficiency of this mode of reason-

ing will appear at once by an application of it to other instances. The right to defend ourselves, with which we are endowed, was not *intended* to operate to the destruction of any. Is it therefore never to be permitted so to operate? The institution of municipal laws was intended for the *benefit* of every member of the society, and not for the destruction of any. When the latter consequence would follow, is all regard to them superseded?

That no such right as that of extreme necessity can exist until it be created and established, as it very frequently is, by the laws of particular communities, has already been shewn. It has been proved that no man, except he receives an especial divine permission, has a right to deprive another of his property, or to restrain him in the enjoyment of it, without his consent having been previously given, unless the latter has invaded, or shewn a design to invade, the rights of the former, or of some person under his protection.

Nearly

Nearly allied to this supposed right of extreme necessity is another imaginary right, frequently maintained by men of worth and intelligence, that of departing from established rules of justice *in extreme cases*. They assert that every moral principle may be rendered *absurd* by being pushed too far. And in order to prove this assertion, they put extravagant cases, in which they endeavour to shew that great hardship and mischief would result from a rigid adherence to general rules. Now, were we to reason with them on their own grounds of expediency, (for expediency, which has been proved inadequate to the establishment of any right, is in fact the ultimate basis of their argument,) the point in question would be decided against them by a considerate and unprejudiced umpire. For he would in the first place observe, that the cases, which they find themselves obliged to adduce in support of their cause, are such as from their very nature can rarely occur: and, consequently, that little addition would be made to the sum of  
human

human felicity, were the deviation from established rules for which they contend put in practice in those and in similar instances. And in the next place he would remark, that if once such a deviation were authorised, men with the purest intentions would naturally be led by imperceptible degrees to conceive almost *any* case in which their feelings were strongly interested to be an *extreme case*; and that the unprincipled and artful would frequently represent, and with sufficient plausibility, a common case as *extreme*, and would in consequence be suffered by their more ignorant neighbours to act as if it actually were so: insomuch that the unjustifiable proceedings, and the miseries thence ensuing, to which the misapplication and abuse of the principle would give birth, would abundantly outweigh the seemingly good effects, which might occasionally arise from the proper use of it.

As, to the *absurdity* which is alleged, it must be remarked that no apparent  
absurdity



absurdity can impeach the validity, or limit the operation, of a rule of justice, except that which would result from a proof that the rule, as applied, contradicts itself, or some other branch of justice. A proof of such an absurdity would be decisive: for truth must always be consistent with itself. But the position that the rules of justice are of universal obligation can never be shewn to be absurd in this proper sense of the term. And indeed it will be found on observation, that they who combat it usually strive to prove it absurd, not by shewing that any such contradiction as has been described is inherent in the position which they oppose, but by an appeal to men's feelings, or to their ideas of expediency; and therefore build their reasoning on extravagant cases, calculated to overpower dispassionate argument by an instantaneous and violent impression on the feelings of the mind.

The reasoning which has been already urged against the right of extreme necessity  
is

is equally applicable to the right of deviating from the rules of justice in extreme cases. These supposed rights are equally irreconcilable with the propositions which have been established in the preceding chapters; they are equally destitute of foundation, equally indeterminate in their extent, and appear equally fitted to disturb the peace and happiness of mankind.

The conclusions which have been deduced in this chapter, and in the three preceding chapters on Indemnification, Punishment, and Slavery, are strictly applicable to the proceedings between independent states, unconnected by any particular engagements. The various modifications which these rules undergo, when applied to proceedings between members of the same community, arise from the peculiar rights and obligations of governors and subjects.

## C H A P. XIV.

## ON ENGAGEMENTS.

**E**NGAGEMENTS take place by means of an exercise of the authority from God, which it has been shewn that each individual possesses, to alienate his rights, and to accept such rights as may be transferred to himself.

As all engagements, however distinguished from each other by being ranged under different denominations, by being contracted with peculiar formalities, or attended with peculiar conditions, are intrinsically of the same nature; the following observations, though confined to those usually comprised under the name of Promises, will be equally applicable to engagements of any other description.

A pro-

A promise is not a mere declaration of an intention : it is an engagement to the promisee that the promiser will act in the manner specified.

Consent understood to be given and accepted, by whatever means the consent and acceptance are signified, constitutes a promise. But less than this will not constitute one. If the one party does not accept the right offered to him by the other, matters remain as they were before the offer was made. Promises then do not exist before acceptance, and consequently cannot be binding.

Any one of the rights of an individual, unless held under a stipulation that it shall not be alienated, may be the subject of his promises : for all such rights are at the disposal of the owner. If therefore he should promise to part with any thing, which it was his duty in the sight of God to have retained ; if a father, for example, should engage to give to a stranger the property,  
which

which he ought to have reserved for the future benefit of his own children; he is naturally at liberty to do so, and the promise, criminal as it may be, is valid.

The obligation to perform a promise is a branch of the general obligation not to infringe the rights of another. When an individual by an engagement has transferred to his neighbour one of the gifts which God had bestowed upon him, the latter has now the same right to it, which the original proprietor had before the transfer: and if it be withheld from him, he has the same right to use force for the recovery of it as for the recovery of any other article of his property.

The foregoing positions respecting the circumstances which a promise involves as essential to its existence, the subjects which it may embrace, the obligations which it imposes, and the rights which it confers, may be illustrated by the following instance.

If

If a traveller asks a shepherd the road to the place whither he is journeying, the latter is not originally under any obligation to the inquirer (whatever may be his duty in the sight of God) to communicate information. His knowledge is his own; and he may impart or withhold it at his discretion. The traveller requests him to impart it. If the shepherd returns an answer which he knows that the former will consider as an assent to his request; that is, as a direct or implied promise that he shall be put in possession of the knowledge in question; this knowledge is now become the actual property of the traveller. And the latter has the same right to use force, if force be necessary, for the purpose of obtaining it from the former, as he would have to obtain the delivery of a lamb which the shepherd had promised to him, or the restitution of a horse of which he had robbed him.

In whatever manner the promise may have been made, whether it were expressed

or implied, whether entered into by words or by actions, the preceding reasoning will be equally applicable.

The shepherd might enter into a valid engagement to give the traveller right directions even by wilfully directing him wrong: for he would know that the traveller would understand *any* directions not palpably absurd as an assent to his request. He might convey a promise by a nod as intelligibly as by the most positive verbal assurances. And however it were conveyed, he would be equally bound, and might with equal justice be compelled, to fulfil it.

But the shepherd would not be bound to those, to whom he could not be supposed to mean to engage himself. The strongest assurances given to the traveller would not lay the shepherd under any obligation of shewing the road to a listener, whom he did not know to be at hand, or evidently did not mean to address.

R

A pro-

A promise may be expressed with studied equivocation : or it may be conveyed, without any fraudulent intention in the promiser, in terms which admit of more than one meaning. By what rule is the just interpretation of the promise to be ascertained ? In all such cases the promise is to be performed in that sense, which the promiser apprehended, at the time of making the promise, that the other party understood it to convey.

For what is it that constitutes a promise ? Consent, understood to be expressed by one party and to be accepted by the other. The promiser, therefore, is bound to fulfil what he meant to express and believed to be accepted : and the promisee has a right to claim what he meant to accept and believed to be expressed. If either of them apprehended that the other party had a different meaning from himself, but did not intimate his doubts and come to an explanation, he is bound to adhere to that different meaning : for by his silence he  
implied



implied acquiescence in it. So that, in fact, the promiser is bound to fulfil what he believed to be accepted: and the promisee has no right to claim more than he believed to be expressed.

In certain cases promises are not binding.

1st. When either the promiser at the time of giving his consent, or the promisee at the time of accepting it, is physically incapable of understanding whether the transaction would be conducive to the purposes of his being.

The principles, on which this rule is founded, were established in the latter part of the seventh chapter of this treatise. It is not necessary to recapitulate them.

Thus the promises of infants, idiots, and lunatics, are naturally void.

For the same reasons the promises of a drunken man are void, supposing the law

of the land to be silent, if at the time of making them he was so far overpowered by intoxication as to be no longer capable of discerning his duty; but not otherwise. Whether this was the case or not, is a point to be determined from particular facts; in the same manner as you would ascertain the degree of mental defect which constitutes idiocy, or of mental disorder which constitutes madness.

Perhaps it may be said, that even on the principles of natural justice the drunken man, notwithstanding the derangement of his intellects, is answerable for his actions while in that situation; having reduced himself to it by his own voluntary act. That argument, if it had any force, would apply equally to the cases of such idiots and lunatics as have brought their incapacity on themselves by their own misconduct; by the gratification, for example, of intemperance, or through the excess of ungoverned passion. It is not, however, applicable in any of these cases. Although  
every

every man, who deprives himself of reason, is answerable to God; yet if he be in fact, through whatever cause, no longer capable of understanding and fulfilling the purposes of his being, he is naturally unable to convey any right: and what he cannot convey, the promisee cannot acquire from his consent. The laws of civil society may interpose, and render the drunken man responsible for the promises, which he shall afterwards make in the hour of intoxication. But we are at present enquiring into the state of the case, when human laws have not settled the point.

2dly. Promises are not binding, when an express or implied condition, on which they are understood by both parties to be founded, fails without the fault of the promiser.

For the terms are not fulfilled, on which alone the promise was to be obligatory.

Thus if a person undertakes to assist another, avowedly supposing him to be unjustly attacked; he is released from his promise, if he discovers the promisee to be the aggressor. So likewise in contracts, which are mutual promises, if one party fails in the performance of his engagement, the other is released, unless there were some previous stipulation expressed or implied to the contrary,

If the promiser be previously apprised of the failure of the condition, or wilfully occasion it, he violates his engagement, and may be compelled to make satisfaction,

These rules will be illustrated by a consideration of the case of promises, the performance of which is impossible.

It is almost superfluous to state, that such promises are evidently not binding during the continuance of the impossibility. The possibility of performance must be in every  
case

case among the suppositions, on which the promise was understood and accepted ; and of course is to be deemed a condition of the promise.

But if the promiser was privately aware of the impossibility when he made the promise ; as if he engaged to put a tenant into immediate possession of a farm which he knew to be under lease to another ; or if he afterwards occasioned it, as if the owner of a ship, after engaging to convey a passenger to the West-Indies, and to receive him on board on an appointed day, were to set sail a month before-hand without him ; the promisee has a right to compensation for the loss, which he sustains by the non-performance. For in each case he acquired a right to the thing promised : and in each case the disappointment of his just claim, and the consequent injury which he receives, are owing to the wilful fault of the promiser.

If the promiser, on discovering the impossibility of performing an engagement which he has contracted, should also perceive that it is an impossibility capable of being removed; he is bound to use all reasonable exertions in order to remove it. For he cannot suppose that the promisee understood him to mean less than that he would fulfil his engagement, if it were possible; and that if the performance of it should prove impracticable for a time, he would exert every such method, as under all the circumstances of the case could fairly be deemed reasonable, to remove the obstacle, and to remove it without unnecessary delay. As soon as the impossibility ceases, to whatever cause its removal may be owing, the obligation of performance is completely in force.

3dly. Promises are not binding, the performance of which would be unjust, that is to say, would be an infringement of the rights of a third person.

For

For the promiser cannot convey a right, the disposal of which does not belong to him: and, consequently, the promisee cannot acquire it,

If both parties were aware of the injustice of performance at the time when they entered into the engagement, the case is clear: neither of them can have a doubt of the promise being void. Nor is the promiser bound to indemnify the other; as a right could never be supposed to be conveyed to him.

If both parties, as far as may appear, were unapprised at the time of engaging of any injustice attending the performance; the promisee, on this injustice being discovered, (whether it did or did not exist when the promise was made) has no claim to indemnification. For all engagements, where nothing appears to the contrary, must be understood to have proceeded on the supposition, that is, on the implied

6

condition,

condition, of the performance being compatible with justice.

But if the promiser has wilfully occasioned the injustice of performance; or if he was privately aware of it at the time of making the engagement, and the promisee was ignorant of it; in either case he is liable to a just demand of compensation. For by his promise he engaged to put the other party in possession of the matter in question. And he is bound to make reparation for the disappointment and injury, which he has wilfully occasioned by designedly producing, or fraudulently concealing, the injustice, which would attend the performance of the engagement.

The reasoning which has been stated on the subject of promises, the performance of which is unjust, fully applies to promises which contradict a former valid engagement. For the right pretended to be conveyed by the subsequent promise was  
already



already transferred to another person by the former.

The three general rules which have been stated, comprehend, as I conceive, all the cases in which it can be proved that promises are naturally void. It may, however, be not without use briefly to notice a few remarks, which have been made by ethical writers on this subject.

It has been affirmed, that the performance of a promise is unlawful (and consequently that the engagement is void), when it would be inconsistent with what is termed an *imperfect* obligation. It would not be difficult to prove this rule radically erroneous in its principle; nor to shew that it has led, and must necessarily lead, those who have advanced it to conclusions the reverse of those which they have maintained on other (*m*) grounds. But as the differ-

(*m*) Elements of Moral and Political Philosophy, vol. i. p. 132. Compare what is there said on the instance of promising

difference between the kinds of obligations, which moralists have denominated perfect and imperfect, has not yet been specifically discussed in the present treatise (nor would this be a fit place for the discussion); it will be sufficient to observe that, if the rule were true, no reliance could be placed on any engagement. The promiser would in numberless cases actually discover some imperfect obligation, which would be violated by the performance. And in every case he would be able to feign such a discovery, without being liable to confutation (*n*).

It

promising your vote, (a promise which is declared not to be binding when opposed to an imperfect obligation,) with the observations on the same instance, p. 138. How can these decisions be reconciled; since it is expressly admitted, *ibid.* p. 91, that you are under an imperfect obligation, to give your vote to the better candidate?

(*n*) The moralists of antiquity were extremely *liberal* in granting exemptions from the obligation of performing promises; as might be expected from the looseness of principle, which pervaded their whole system of moral conduct. Cicero, who was undoubtedly one of the wisest and  
most

It has also been affirmed that a promise cannot be deemed unlawful, where it produces, when performed, no effect beyond that which would have taken place had the promise never been made.

most virtuous of them, lays it down as an undeniable and self-evident rule, and without the smallest exception or qualification whatever, that no promises are binding which a person makes in consequence of being constrained by fear, or deluded by artifice. “*Jam illis promissis standum non esse quis non videt, quæ coactus quis metu, quæ deceptus dolo, promiserit?*” *De Officiis*, lib. i. He states further, and in terms equally positive, that a promise is not obligatory, when the performance of it would be unprofitable to the promisee; *or when the performance would occasion more disadvantage to the promiser, than benefit to the other party.* “*Nec promissa igitur servanda sunt ea, quæ sunt iis, quibus promiseris, inutilia; nec si plus tibi noceant, quàm illi profint, cui promiseris.*” *Ibid.* It is to be observed, that although Cicero grounds these rules on the two principles which he had previously laid down as the foundations of justice, one of which principles was general utility (*ut communi utilitati serviatur*); yet in each of them he seems altogether to lose sight of the benefit of the promisee, and to constitute the promiser the judge of the value of the promise to the latter, who is thus left wholly at his mercy. We have here an additional proof that moral rules, professedly founded on general expediency, will usually degenerate in practice into rules looking solely to the private utility of the party who is to make use of them.

As this rule, which surely is not self-evident, has not, I believe, been supported by any arguments; it will be sufficient to refute it by an example. A highwayman determines to rob a certain individual; he is afterwards desired by another person to rob the same man, and engages to do so. According to the foregoing rule his promise would be lawful. For, if he had not made it, he would still have committed the robbery.

From the preceding erroneous rule an inference equally erroneous and not less likely to be pernicious has been deduced; namely that, when the performance of a promise will produce no effect which would not otherwise have taken place, the obligation of the promise will justify conduct which, unless it were promised, would be unjust. Thus it has been said, that a captive may lawfully regain his liberty by a promise of neutrality; because the conquerors take nothing by the captive's promise, which might not have been secured  
by

by his death or confinement: and that in consequence neutrality, though criminal in others, would be innocent in him. It has been also said that, upon the same principle, promises of secrecy ought not to be violated, though the public would derive advantage from the discovery: because, as the promiser would not have been trusted with the information except on his engagement of secrecy, the public loses by the promise nothing which it would otherwise have gained. Now, in the first place, it must be observed with regard to the inference itself, that a promise will in no case bind any one to be guilty of a breach of justice, or vindicate the action. In the next place, though a captive may regain his liberty by a promise of neutrality, and though a promise of secrecy must be fulfilled even to the detriment of the public; the reason must be one more substantial than the unfounded principle which has been stated. If the captive may enter into an engagement of neutrality, it is because the laws of his country do not forbid

• him.

him. If the secret is not to be divulged even for the public good; it is because the promise was forbidden by no law, and was understood to be made without reservation.

It has also been affirmed (*o*), that “false-  
 “ hoods are not lies, that is, are not criminal, where the (*p*) person to whom you  
 “ speak has no right to know the truth;  
 “ or, more properly, when little or no  
 “ inconvenience results from the want of  
 “ confidence.”

This rule, under either form, is destitute of any solid foundation.

In reply to the first statement it may be remarked, that if a person puts a question to you when he has no right to insist on a reply, and you answer him in such a way as you think or hope will lead him to

(*o*) Elements of Moral and Political Philosophy, page 184.

(*p*) Page 185.

conclude

conclude that you mean to impart to him the desired information, you *give* him a right to it; and you are guilty of a breach of promise, that is, according to Dr. Paley's (*q*) definition, of a lie, if you do not communicate it: for, to proceed in his own words, "whoever seriously addresses his discourse to another, tacitly promises to speak the truth, because he knows that the truth is expected."

The rule under the second form would speedily be found in practice to authorise every man to violate truth at his own discretion. It is founded on general expediency, a principle which has been already refuted (*r*).

(*q*) "A lie is a breach of promise." Ibid. vol. i. page 184.

(*r*) Dr. Paley's decision under this rule, that you may tell a falsehood to a robber or an assassin to save your property or your life, cannot easily be reconciled with his doubts, p. 140, whether a promise extorted by them is binding.

The practice of deceiving an enemy by feints, false colours, spies, and false intelligence, is justified, according to the author recently quoted, by the preceding rule. The foundation however must be strengthened before it will support the superstructure. It may be sufficient, without entering into particulars, to observe in this place, that the only stratagems which can be employed against an enemy, consistently with natural justice, are such as do not involve either an express or an implied promise of sincerity.

From the positions already established respecting the rights of defence it follows, that the performance of a valid promise may be suspended, as long as the promiser has sufficient reason to believe that the thing promised, if delivered, would be employed in an attack on the rights of himself, or of some person under his protection; unless there were an express or implied condition to the contrary.

Extorted



Extorted promises are naturally binding.

This point has long been contested among moralists. To argue it fairly, we must suppose that the extorted promises are not such as would be void, if they were voluntary.

On what plea then is an exemption from the general obligation of performance claimed for him whose engagement was extorted?

1st. It is claimed, because the promiser entered into the engagement in consequence of violent constraint and apprehension.

By our previous supposition the promiser was not reduced to a physical incapacity of understanding and adopting either of the alternatives offered to him. How then did the force and apprehension affect him? They laid a strong bias on his will, and set before him a powerful temptation to make

the promise. And does this circumstance render the promise void? If you affirm that it does, you must affirm the same in every case in which the promiser is under an inducement equally strong, arising from persuasion, or from interest, or from passion. For, provided that the bias be laid on his will, and the temptation be set before him, it is of no more consequence to the argument by what means this is effected, than it is whether the assailant in the present case attacked him with a sword or with a club. And further, since it is impossible to assign a reason why any particular degree of bias is the lowest which exempts a man from the obligation of performance; you must ultimately maintain that every promise, contracted in consequence of any the most trifling inducement, is void: in other words, you must maintain that no man ever was bound, or ever will be bound, to perform any promise whatever (s).

2d.

(s) Dr. Rutherford, in his *Institutes of Natural Law*, vol. i. p. 189, after reprehending with justice the confused and inconsistent reasoning of Grotius on the subject  
of

2d. But the promiser, it is contended, notwithstanding his outward actions, did not give his mental consent.

His

of extorted promises, decides, that promises made through the impulse of fear to the party who occasions that fear are naturally void. This position has been already shewn to be erroneous, (in considering the first of the arguments urged against the validity of extorted promises,) as far as it is rested on the fear to which the promiser was subject. Dr. Rutherford, however, rests his decision on another ground, which, as we sometimes hear similar reasoning urged at present, it may be right briefly to notice. "Such a promise," he observes (p. 190), "is not binding; not upon account of the promiser's fear, but upon account of the other party's injustice. No right can be founded in an injury. Every unjust act is void as to all the moral effects of it, and consequently can never produce a demand in the person who is guilty of it." Now with respect to the maxim, that *no right can be founded in an injury*, on the validity of which the present question hinges; it is a maxim which the laws of human society have with great wisdom established in many cases (in no country is it known to be by any means universally established) as a fundamental principle of jurisprudence: the legislators justly concluding, that one of the most efficacious methods of deterring bad men from injurious acts is to preclude them from deriving any right or advantage from the injury. But it is a maxim which has no natural validity, when considered as independent of social institutions. For what are the circumstances which are naturally requisite to establish the transfer of a right from one person to another? These, and these only: that the possessor should

His mental reservations, which did not appear, were as immaterial to the validity of the promise as if they had never existed. He knew that every thing was done which constitutes a promise (1): he knew that his consent was understood to be given, and that it was accepted by the other party.

should have the power, and should signify his consent, to transfer it to the other party; and that the latter should have the power of accepting it, and should signify his acceptance. All these requisites exist in full force in the case under examination. The promiser being confessedly, notwithstanding his fear, in the possession of his faculties, and therefore a moral agent, has the power, and he expresses his consent, to transfer the right. The injustice of the other party, be it ever so great, manifestly does not impair, nor has it any tendency to impair, his natural power of accepting the right: and he testifies his acceptance of it. The right therefore is transferred; the promise is binding.

(1) Dr. Ferguson (*Institutes of Moral Philosophy*, 2d ed. p. 189) contends, that an extorted promise is not binding, because the promisee could not have a reasonable expectation of its performance being intended. Surely he did expect it to be performed: or why was he at the trouble of exacting it? Whether his expectations were reasonable or not, is a matter of no consequence; since they were known to the other party, who by his promise engaged to satisfy them.

On

On the present plea, any voluntary engagement might be evaded, and any gift reclaimed. The promise under consideration was substantially made. Why is it not faithfully performed?

3d. The promiser, it is finally asserted, is exempted from the obligation of performance by the principles which have been established in the preceding chapters. For it has there been proved, that every man has authority from God, when self-defence requires, to deprive an aggressor of any of his possessions or endowments. The promiser therefore, even if he admits the other party to have originally acquired a right through his engagement, may yet withhold the thing promised, or may forcibly reclaim it if delivered; either the former (*u*) step being requisite for his self-defence, or the latter for his indemnification.

(*u*) Dr. Ferguson (p. 189, 2d edit.) alleges an argument of this kind.

To this reasoning, which at first sight appears plausible, the following answer may be returned.

The promiser, it is granted, is naturally authorised to use all necessary force against an aggressor in defence of his rights, unless he be under an engagement to the contrary. But the thing which he has promised is no longer his right. He has made it the right of the promisee by his own transfer; and was aware that he was understood to resign all claim to it of every kind, which he possessed before that transaction. Consequently he has no pretext for detaining it on the plea of self-defence, nor for resuming it on the ground of indemnification.

The reasoning and the rules which have been applied in the present chapter to the case of promises, may with equal ease and propriety be transferred to the case of oaths. For oaths are, in other words,

promises, in which a direct and open appeal is made to the Deity, calling upon him to punish the breach of the engagement: whereas, in ordinary promises, the Deity is referred to only in that tacit and indirect manner, in which we habitually refer to him as the source of moral obligation, and the final judge of all moral conduct. This explanation of the nature of an oath evidently shews why the guilt of perjury is more heinous than that of common falsehood. But it also clearly points out the heinous guilt of the latter (x).

(x) It is at all times useful to illustrate moral rules by applying them to cases actually existing. This practice has already been exemplified in a former chapter, in which the principles there laid down were applied to the African Slave-trade. And as it is undeniably of great importance that just sentiments should be entertained respecting the meaning of subscription to the thirty-nine articles; and as the opinion which Dr. Paley maintains on the subject appears to be not only unsupported by argument, but likely to be productive of consequences highly pernicious; the following observations may not improperly be subjoined to the present chapter.

Dr. Paley having previously observed, in conformity to his rule for the interpretation of promises, a rule perfectly just,

just, that the "*animus imponentis*" indicates the sense in which the articles are to be subscribed, affirms, p. 219, that "the legislature of the 13th Eliz. is the imposer."

The latter position is fundamentally erroneous.

The *present* legislature of this country, which, by forbearing to exercise its acknowledged power of repealing the act of 13th Eliz. sanctions and enforces that act, is the imposer of subscription on the existing generation. It is consequently the intention of the present legislature, whether that be or be not the same with the intention of the legislature of the 13th Eliz. which the subscriber is bound to satisfy.

That subscription may be justified without an actual belief of each of the articles, as Dr. Paley evidently appears afterwards to intimate, is a gratuitous assumption. On this point the articles speak for themselves. Why is an article continued in its place, if it be not meant to be believed? If one may be signed without being believed, why may not all? By what criterion are we to distinguish those which may be subscribed by a person who thinks them false, from those which may not? Is not the present mode of subscription virtually the same as if each article were separately offered to the subscriber? And in that case could any man be justified in subscribing one which he disbelieved? These are questions which should be fairly considered and satisfactorily answered, before any one can conscientiously use the latitude offered to him by Dr. Paley's explanation.

No circumstance could have a more direct tendency to ensnare the consciences of the clergy, no circumstance could afford the enemies of the established church a more  
advan-



advantageous occasion of charging her ministers with insincerity, than the admission of a vague opinion, that the articles may safely be subscribed without a conviction of their truth, taken severally as well as collectively. That opinion has sometimes been maintained in publications of inferior note ; but it was with surprise and concern that I beheld it avowed by a writer of such authority as Dr. Paley.

It is possible that, from a desire to satisfy and comprehend persons differing in sentiment, or from some other cause, some of the articles may be worded in such a manner, as to be capable of being fairly interpreted in a sense not only not foreseen or intended by the original imposers, but even inconsistent with the opinions entertained by them respecting the doctrines in question. Yet, should the case be so, such articles may be subscribed in this sense with a safe conscience, if there is sufficient reason to believe the present imposers satisfied with that subscription.

If the terms, in which any of the articles are expressed, may be fairly interpreted in more senses than one ; and if it be a known fact that the generality of subscribers concur in one particular interpretation ; that interpretation, especially if it has for a very considerable time been usually received, may at least be deemed one of the senses, if not the exclusive sense, in which assent is conformable to the intention of the legislature. For if it were not, the legislature, it may be presumed, would have altered the articles, or have pointed out the precise meaning in which it designed them to be understood.

It is, however, no easy task to prove the expediency and propriety of continuing an article, which may be subscribed in opposite or in discordant senses.

## CHAP. XV.

GENERAL REVIEW OF THE NATURAL RIGHTS  
AND OBLIGATIONS OF MEN.

**I**T has been stated heretofore, that by a right is meant authority from God for the enjoyment of any particular thing, or for the performance of any particular action; that is to say, such authority to enjoy the thing, and to perform the action, as excludes the right of interference on the part of other men.

It was also observed that the term "right" is occasionally used, in compliance with custom, to denote what is in strictness of speech the object of a right: as when it is said that life is one of the rights of man.

By natural rights are meant those rights, which an individual possesses independently of the institutions of civil society.

These

These rights, for the sake of perspicuity, it may be proper here to enumerate; referring to the preceding chapters for particular observations respecting each.

The rights then which every individual naturally possesses are the following.

A right to life.

A right to freedom from personal injury and from personal restraint.

A right to appropriate to himself such a portion of the unappropriated productions of the earth, and such a portion of unappropriated land, as is necessary for his comfortable subsistence. The Scriptures give him a similar right over animals.

A right to accept from others, and appropriate to himself, such rights as they are authorised to transfer to him.

A right

A right to defend any of the rights of himself, or of those under his protection, against an aggressor by the use of all requisite force in opposition to him ; either by resisting his attacks ; or by making the first attack upon him ; or by inflicting punishment on him ; so far, and so far only, as is necessary for such defence.

A right, in cases of injury sustained by himself, or by those whom he protects, to exact restitution, or indemnification, from the aggressor, by the use of all necessary force against him.

Lastly, A right to wave, to abridge, or to alienate, any of his rights at his own discretion ; except such as he may himself have acquired under an express or implied condition to the contrary, or may have subjected to such a condition afterwards.

These

These are the natural rights of men, who do not labour under a physical incapacity of understanding, and fulfilling the purposes of human existence. The peculiar restrictions to which persons of the opposite description are naturally subject, and the consequent rights which others possess over them, have been stated in the seventh chapter.

According to the principles of natural justice rights may be lost in two ways. First, they may be forfeited by the criminality of the possessor. Secondly, they may be resigned by his consent. It has been shewn that the loss, in either of these cases, is sanctioned by divine authority. Rights are also liable to be resumed by the express command of God, the original donor. But cases of miraculous interposition it is in these days unnecessary to discuss.

Right and obligation are correlative terms. Wherever any individual has a  
right,

right, all others are under an obligation not to make an attack upon it. In every such case they are under a special obligation both to God and to the owner of the right. For obedience is due to God who conferred the right : and every man is entitled to freedom from injury. But the original obligation which each individual is under to exercise and dispose of his own rights in such a manner as may best promote the purposes of his being, is an obligation to God alone.

No circumstance has more materially contributed to introduce confusion into moral reasoning than the various and even hostile significations in which the word "right" has unfortunately been employed. Not in conversation only, but in books of repute, expressions like the following are common. "It is right that you should relieve a beggar"—"I have a right to refuse, if I think fit"—"The Almighty has a right to your constant obedience"—"I have a right to be as lavish as I choose  
" with

“ with my income, though I know that  
“ extravagance is displeasing to him.”  
There is a sense, in which each of these  
positions is true. But it is evident that, if  
such a sense is to be found for each of them,  
it must be found by taking the word  
“ right” in various acceptations. Were  
that word used in all of the sentences in  
question according to one clear and precise  
definition, they would manifestly involve  
positive contradictions.

One principal source of these inconsistencies has been the general and injudicious practice of moralists, in dividing rights into two kinds, which they have termed perfect and imperfect. The definitions, by which different writers have described and distinguished these rights, are different. By some it is stated that rights are perfect, when according to natural justice they may be recovered, if withheld, by force ; imperfect, when they may not. It has been pertinently observed, that this account, instead of deciding the matter, does no

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more

more than lead the enquirer to other doubts : namely, what rights are according to natural justice recoverable by force ; and how that can be a right, which may not be so reclaimed. Others have said, that rights are perfect, when they are recoverable by course of law ; otherwise, imperfect. This representation, not to dwell on collateral objections, makes perfect rights to arise solely from civil institutions ; contrary to the declared sentiments of those who adduce it. Others state that a right is perfect, or imperfect, accordingly as the object of it is determinate, or indeterminate. Thus they affirm, that the right of a man to his property is perfect ; the right which the most deserving of several candidates has to the vacant office, or seat in parliament, imperfect. But it may be replied, that the office and its emoluments, the seat in parliament and its privileges, are objects as determinate as a farm and its rent, a coal-mine and its profits. Others again have gone so far as to affirm, that perfect rights can be distinguished only



only by (y) their value: an explanation which sets the whole subject altogether afloat.

The truth is, that the division of rights into perfect and imperfect is radically inaccurate, and a source of continual and important errors. Under the title "perfect," all rights whatever were in fact comprehended. Those denominated "imperfect" were not rights, according to any consistent definition of that term. If I were told by a moral philosopher, that a person in distress had a right to my charity; I should acknowledge that the unfortunate

(y) *Elements of Moral and Political Philosophy*, vol. ii. p. 3. According to this position, which is a natural consequence of the rule of general expediency, it should seem that a candidate at an election, who merits the vacant seat, and thinks the possession of it as valuable to him as one of his estates, has as truly a perfect right to the former as he has to the latter. If this and other necessary consequences of the rule should be contradicted by some parts of the work in question, that circumstance, far from obviating the arguments against the rule itself, will only shew at what opposite conclusions the most acute reasoner will arrive, who takes general expediency for his guide.

man might have good reasons for presuming that I should relieve him : because he might reasonably expect, that I should cheerfully employ a part of the gifts, which God had bestowed upon me, in a manner so conformable to the will of the donor. But I might justly deny that he could be said to have a *right* to that assistance from me, which my Creator gave me authority to confer or to withhold at my discretion : an authority for the due exercise of which I am answerable to God alone.

- The same argument would apply with equal force to all other *reasonable expectations*. The name of reasonable expectations is in truth the strongest appellation which can be given to the supposed claims, which have been erroneously termed imperfect rights.

The introduction of imperfect rights was necessarily followed by a train of imperfect obligations. These, of course, rest on the same unsubstantial foundation with the  
supposed

supposed rights to which they correspond. Thus, I am not under an obligation to a beggar to relieve him, because he has no right to my assistance. My obedience is due to God; and therefore I am under an obligation to God to relieve the beggar, if I think upon the whole that it is the divine will that I should. But this is a point which I am to decide for myself; and, in making the decision, it is my own conscience alone, and not the beggar's expectations, which I am bound to satisfy.

*Reasonable expectations* appeal to the benevolence, or to the gratitude, or to the generosity, or to some similar disposition, of the individual to whom they are addressed. Claims of *right* appeal to his sense of justice. He alone is truly conscientious, who attends habitually to both. It is to be remembered that, in disregarding an application of the former kind, you may commit as great a sin, as, in the latter case, by the actual infringement of a right. Persons may have suffered,

and deservedly suffered, at Tyburn for stealing a sheep, who may have incurred by the theft less guilt in the sight of God than would be contracted by the man who, beholding a fellow-creature lying naked and wounded in the way, should pass, like the priest and the levite in the parable, “on the other side.”

## CHAP. XVI.

THE TRUE GROUNDS OF CIVIL OBEDIENCE  
EXPLAINED. — ERRONEOUS NOTIONS EXA-  
MINED.

IT is now generally admitted, that the Scriptures contain no passages designed to ascertain the precise foundation and extent of civil obedience. Not that they are altogether silent on the subject. They lay down in clear and decisive terms two very important rules : first, that we are in all cases to obey God rather than man : secondly, that we are to pay due submission to lawful authority. Having fixed these landmarks, they commit the rest to the arbitration of human reason. They neither enjoin nor prohibit any particular form of government. They describe not the peculiar merits and peculiar disadvantages of monarchies, aristocracies, and democracies. They concern not themselves with deli-

neating specific discriminations of rank, or arranging the constitution of senates. Universally requiring the governors and the governed to act in their several stations as men who, for every part of their conduct, are to answer at the judgement-seat of Christ; the sacred writings leave each nation at liberty to frame for itself, from time to time, such a mode of civil government, as it shall deem most conducive, under existing circumstances, to the welfare of the whole community.

This fundamental point being determined, the attention of the reader may fitly be recalled to a proposition, the truth of which has already been proved, namely, That the following are the only cases, in which any person is authorised to deprive another of the gifts of God, or to restrain him in the enjoyment of them.

1st, When he proceeds to such deprivation or restraint in consequence of the immediate command of God :

2dly,

2dly, Or in consequence of its being necessary for the defence of himself, or of some person under his protection, against the unauthorised attempts of the other party :

3dly, Or in consequence of the consent of the individual thus deprived or restrained.

I. Since there is no apparent probability that, in the present period of the world, Providence will interpose in an extraordinary manner to define the rights of governors and the duties of subjects; and since, if it should interpose, the only line of conduct to be adopted would be implicit submission; the first of the preceding cases does not require further illustration.

II. The force, exercised in consequence of the necessity stated in the second case, is justifiable only to the extent, and during the continuance, of that necessity. Situations may arise in which, on the ground of this necessity, an aggressor may justly  
be

be reduced to the alternative of undergoing the punishment which he has deservedly incurred, or of entering into civil society in subordination to his opponent : and in like manner a conquered country may be led to connect itself with the victorious state. And in a few scattered instances there may possibly be truth in that assertion, which ambition has always in its mouth as a plea for encroachments ; namely, that the union of the conquered state with its neighbour is the only method which can give reasonable security to the latter against further aggressions justly apprehended from the former. It is also possible that an unjust attack may influence the weaker party to accede to a similar union with the oppressor. In the first and third however of these cases, the consent of the vanquished, though extorted, is the circumstance which lays them under the social obligation ; for it was in their option either to endure extremities, or to submit to the terms proposed. In the second case which was stated, the submission of  
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the vanquished country is founded, in the first instance, on just coercion. And the same coercion may justly be continued as long as the only cause which will justify it remains; that is to say, as long as there continue to be sufficient grounds for apprehending further unjust attacks from the subjugated party. But when those grounds no longer exist, the right of compulsory dominion, which was founded on them, ceases also. And therefore the subsequent exercise of dominion cannot be justified, unless the inhabitants of the originally subjugated country authorise it by consent expressed or implied. Now it is by no means likely that those primary grounds of dominion, of which we have been speaking, should subsist very long. For it is not probable that both the desire and the power of making unjust attacks on its neighbour, should subsist from generation to generation in the district in question in such a degree, as would justify the other party in holding that district in a state of political slavery :  
and

and such is the state of compulsory submission, however wise and equitable may be the particular form of government maintained by that compulsion. At any rate however one point, and it is the main point with which we are concerned in the present enquiry, is evident ; namely, that with whatever justice the plea of compulsory dominion now investigated may be alleged in any particular instance, it is a plea which can refer only to the case of an independent country or district, constrained to admit the control of an injured neighbour. It is a plea which in the nature of things is totally irrelevant to the case of a nation considered collectively, on the one hand, as contrasted with the persons to whom it has delegated the powers of government, on the other : and therefore can never be applied to the decision of a contest between a nation and its individual rulers respecting the right of the latter to the exercise of power.

### III. There-

III. Therefore, speaking generally, the only just foundation of civil government is the consent of the governed.

As this conclusion immediately and incontestably follows from principles, the validity of which has been established in the preceding pages ; it cannot be necessary to enter into a prolix refutation of the various unsubstantial pleas on which governors, in different ages and different parts of the world, have rested their claim to dominion. Yet, on account of the importance of the subject, it may not be useless to return a short and distinct answer to such of those pleas as have been most commonly maintained in theory or in practice by rulers disposed to tyranny, whether placed at the head of monarchies, of oligarchies, or of republics.

If the governor, like some of the Eastern despots, rests his claim on the superior dignity of his own nature ; or on a plea apparently countenanced heretofore by some

writers in our own country, the possession of a certain transcendancy of genius calculated and as it were naturally destined to command ; and thence infers that he has a right to compel his fellow-creatures to obey, for the purpose of promoting either his happiness or their own : what reply shall we give to an argument, which, if it were solid, would authorise every man to enslave his less enlightened neighbour, and would justify a Newton in seizing the sovereignty of the world ? We may recur to that train of reasoning, by which it has been already proved that no man would be authorised, on the plea of promoting the happiness either of himself or of another, even if the object could certainly be attained, forcibly to restrain an unoffending individual in the use of the gifts bestowed on him by his Maker.

The position that some men are naturally entitled to the exercise of dominion, and others prohibited from refusing obedience, independently of any direct or  
virtual

virtual contract between the parties themselves, has been in all ages the most strenuously defended by those, who have expected to reap credit or advantage from the establishment of it: and it has been maintained at various periods under various forms, respectively suited to the genius of its partisans, and the prejudices of the times. The prince of the ancient philosophers pronounced that Nature had destined the barbarians to be slaves. And all were barbarians who were not Greeks. The ruder nations of succeeding ages, more prone to the impulse of headlong valour, than disposed to the subtleties of metaphysical disquisition, averred that all things were open to military prowess, and that the gods confirmed the title of the victors. Modern authors, who have undertaken to vindicate the opinion in question, have in (z) general abandoned the modes

(z) The language publicly held by several advocates for the African slave-trade, who have not scrupled to pronounce the negroes a race inferior to Europeans and created

modes of defence traced out to them by the selfish arrogance of the Grecian, and the wild ferocity of the Goth; and have alleged arguments in its favour more congenial to their own prepossessions, and to those of their countrymen and cotemporaries: arguments sometimes founded on the misinterpretation or perversion of the Scriptures; sometimes on erroneous inferences drawn from reason and philosophy. To the former class of writers may be referred those, who have contended for the civil or spiritual supremacy of the Pope, and for the extravagant dominion which has been claimed by ecclesiastics over the laity; those who, on the ground of some expressions in the New Testament, have upheld the doctrine of divine right on the part of sovereigns, and passive obedience on

created to be their slaves, obliges me to speak with some reservation. Similar opinions were delivered in the sixteenth century by many Spanish ecclesiastics respecting the natives of the newly-discovered islands of America. See Dr. Robertson's *History of America*, 4th ed. vol. i. p. 265 and 284.

that

that of their subjects; and those who, scarcely attempting to unite the disjointed links in the chain of their reasoning, have asserted, that kings are entitled to unlimited power in consequence of the pre-eminent authority, with which they suppose our common forefather Adam to have been invested. Happily these doctrines are all so generally exploded as not to require a particular discussion in this place. To the second class of writers, mentioned above, belong those who found the right of one man, or of one set of men, to exact obedience from others solely on hereditary claims and ancient customs; on the mere ground of conquest and forcible possession; on references to general utility; or on a simple attention to local expediency.

The right of exercising government over others, independently of any consent on their part, for the sake of local expediency, or, in other words, of making them happy, has been already considered.

So likewise has the right of assuming dominion on the ground of general expediency ; the ground on which the advocates of that principle found every right of the civil governor. On these points, therefore, it is unnecessary to enlarge.

Perhaps the claim is rested on the ground of conquest or captivity. These grounds have in fact been considered within a few preceding pages. If the war was not undertaken by the victors either in the just defence of themselves, or of others under their protection, it was an unauthorised attack on their opponents. And mere success in such an attack gives the conqueror no right to impose forcible restraints on his vanquished or captive antagonist. If the latter, presented only with a choice of evils, agrees to acknowledge the authority of his too fortunate enemy ; the governor has then acquired a right to enforce submission : but he has acquired it from the consent of his subject. Until that consent is expressly or impliedly given, the pretended



tended sovereign is an usurper ; and has no better title to the fruits of his conquest than an highwayman has to his booty. If the war was originally just, the conqueror has a right to exercise dominion over the defeated party, so far as is necessary to insure to himself, and to those whose cause he has undertaken, indemnification for the injuries already sustained, and security from any further violence which he believes to be meditated. After the attainment of these purposes, consent, investing him with civil authority, is indispensably requisite to vindicate the continuance of his jurisdiction.

Sovereignty exercised on the grounds of hereditary claims and ancient custom almost always implies the consent of the governed. If it were exercised without having ever received the sanction of their consent, it would be no other than forcible possession. The total insufficiency, in point of justice, of such possession to establish a

real title to sovereignty has been exposed already.

But perhaps the governor grounds his claim to sovereignty on the single circumstance of the individual, whose obedience he requires, having been born within his territories. At the present day, and in this enlightened part of Europe, he cannot surely mean to have the claim understood according to the exploded notions of feudal vassalage. He cannot mean to imply that man is attached, like a tree, to the spot of land on which he is originally placed; that he is an appendage inseparable from the soil, and necessarily subject to the same restrictions. He must confess that God has bestowed upon every man certain natural rights, in whatever region he may chance to pass the first moments of his existence; and must explain his claim to imply, that the constitution of the country entitles him to allegiance from every person born within the limits of its jurisdiction. How then  
has

has the individual in question lost his natural right to freedom? Has he forfeited it by his crimes? That is not pretended: the claim of allegiance embraces alike the innocent and the guilty. In what manner therefore have the constitution and laws of the country acquired authority to control his original rights? These rights, until he arrived at such an age as to be entitled to act wholly for himself, were to a certain degree at the disposal of his parents or protectors: but, when that period is arrived, are they not absolutely his own by the gift of God? By the gift of God they are absolutely his own. And as long as he abstains from invading the rights of others, no person whatever can claim any jurisdiction over him, until it be sanctioned by his express or implied consent.

## CHAP. XVII.

CONCERNING THE PRINCIPLE ON WHICH CIVIL  
GOVERNMENT WAS ACTUALLY ESTABLISHED.

CONSENT then, given by the subject, is the genuine source of just authority in the governor. The next question is, on what principle was civil government actually established among men? Unquestionably on that very principle.

The shortest method of proving this position is to ask those who deny it a question in return: on what other grounds could civil government be established? The sum of positive strength is always on the side of the governed. The ruler, whether the head of a family, of a tribe, or of a nation, was from the first utterly incapable of overcoming and keeping down his subjects by his single force. How then were they brought to submit to him? "He  
" convinced

“convinced them,” you reply, “that submission would be for their advantage, or was their duty.” That is to say, he persuaded them, on motives of advantage or of duty, to *consent* to receive him as their governor. “Or he might compel them,” you add, “by the assistance of others.” How then did he obtain command over these assistants? And how did he retain authority over his subjects, when the assistance, which had supported him, was withdrawn?

If we institute a direct enquiry into the manner, in which civil government was introduced among men, the result will lead us to the same principle, consent.

The establishment of civil government took place in so early a period of the world, and the Scriptures, the oldest and the only authentic records of remote ages, are so concise in their accounts of events which happened before the deluge, and of the transactions which attended the re-peopling

of the earth; that we are not to expect from history a distinct answer on the subject of the present enquiry. It is, however, a proposition nearly self-evident, and one which is confirmed by the according opinions of ethical and political writers, that government was at first patriarchal or military. And commonly the patriarchal mode would precede the other.

A parent possesses not, as such, a natural right to the exercise of civil government over his children, or their descendents, when fully arrived at years of discretion. His rights were conferred upon him by the Supreme Being, that he might be enabled to fulfil the duties attached to the parental office: and they naturally cease on the accomplishment of the end, for which they were bestowed. The uninterrupted display of gratitude and love is a requital, which he may justly expect from his posterity to the termination of his life. But when the child has attained to manhood, and is able to discern and accomplish, by means of the powers

powers and faculties entrusted to him by his Creator, the general purposes of human existence; the right of coercion on the part of the father ceases. Yet various motives would concur to induce children, and descendents in remoter degrees, spontaneously to place themselves, when grown up, under the jurisdiction of the common ancestor: affection, namely, for his person; reverence for his age; deference for his experience and wisdom; and habits of submission formed during infancy and childhood, and strengthened by practice into regular principles of action. Upon his death, the son distinguished by priority of birth, by superiority in useful endowments, or by the long-established confidence or the express recommendation of the parent, would be allowed to succeed to the vacant pre-eminence. Thus we not only discover a natural tendency in mankind to adopt the patriarchal mode of government; but a tendency likewise in that mode of government to become hereditary. It is obvious, however, that neither the parent nor his successor was naturally

naturally possessed of a right to restrain any individual, when arrived at mature age, from quitting, if he thought fit, the family settlement, from entering into new associations, from subjecting himself to some other form of civil government. The consent of the governed was the corner-stone, on which the fabric of government was erected.

Another source of civil subordination in early periods is to be found in military undertakings. In the rude contests of uncivilised hunters and herdsmen the necessity of a leader would soon be as apparent, as it is in the scientific hostilities of polished empires. An individual distinguished by strength and swiftness, by fortitude and cunning, by patient endurance of hunger and thirst, and by other qualifications useful and conspicuous in savage life, would be appointed to the office of commander by his associates in the war. Personal prowess and skill manifested in the field, and more especially if crowned with success, would insure to him a degree of influence and  
respect,



respect, which would not be extinguished by the return of peace. The prospect of future warfare, which in uncultivated ages would continually present itself, would keep the eyes of his former followers fixed upon him. The recurrence of military enterprises would confirm his authority. He who, during war, had been in the habit of exercising indefinite, perhaps unlimited, power over his companions, would usually be permitted, and would not unfrequently be desired, to decide their disputes and regulate their proceedings in peace. Such would naturally be the case, though the chieftain were devoid of ambition. But ambition would commonly interpose to improve the favourable opportunity. In this mode of government we perceive a tendency, less powerful indeed than in the patriarchal form, to become hereditary. The chieftain, now raised into a prince, would generally obtain such an ascendancy over his tribe, as to be able to procure for one of his sons, unless they should all be singularly deficient in the requisite qualifications,

cations, the power of succeeding to the office of ruler, when it should be rendered vacant. It is scarcely necessary to draw the conclusion, for the sake of which the preceding detail has been given; that in this form of government, no less than in the patriarchal, the whole fabric of civil authority is founded on consent.

## C H A P. XVIII.

THE MANNER IN WHICH THE PRINCIPLE OF  
CONSENT IS USUALLY CARRIED INTO EFFECT  
IN CIVIL GOVERNMENT, AND THE PRACTI-  
CAL ADVANTAGES RESULTING FROM THE  
ESTABLISHMENT OF GOVERNMENT ON THAT  
PRINCIPLE, EXPLAINED.

SINCE it appears that the consent of the governed is the only just foundation of civil government, and that it is the foundation on which civil government was originally erected among men; it becomes a natural and interesting inquiry, whether in modern times, and particularly in our own country, that principle is still the corner-stone of civil power. The result of the investigation will be found such as every Englishman attached to the existing constitution of his country must desire.

The precise state of the case may perhaps be most clearly developed by examin-

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ing the statements and reasonings of a very able modern writer, who labours to explode every theory which grounds civil obedience on the consent of the subject; rejects (*a*) "the intervention of a compact as unfounded in its principle, and dangerous in the application;" and substitutes (*b*) "public expediency in the place of all implied compacts, promises, or conventions whatsoever."

He observes, that the compact, which Mr. Locke and other political writers affirm to subsist between the citizen and the state, is twofold.

"First (*c*): An *express* compact by the primitive founders of the state, who are supposed to have convened for the declared purpose of settling the terms of their political union, and a future con-

(*a*) Elements of Moral and Political Philosophy, vol. ii. p. 141.

(*b*) Ibid. p. 143.

(*c*) Ibid. p. 130.

"stitution



“stitution of government. The whole  
“body is supposed, in the first place, to  
“have unanimously consented to be bound  
“by the resolutions of the majority; that  
“majority, in the next place, to have  
“fixed certain fundamental regulations;  
“and then to have constituted, either in  
“one person or in an assembly (the rule  
“of succession or appointment being at the  
“same time determined) *a standing legisla-*  
“*ture*, to whom, under these pre-established  
“restrictions, the government of the state  
“was thenceforward committed; and whose  
“laws the several members of the conven-  
“tion were, by their first undertaking, thus  
“personally engaged to obey. This trans-  
“action is sometimes called the *social com-*  
“*pact*; and these supposed original regu-  
“lations compose what are meant by the  
“*constitution*, the *fundamental laws of the*  
“*constitution*; and form on one side the  
“*inherent indefeasible prerogative* of the  
“crown, and on the other the *unalienable*  
“*birth-right* of the subject.”

“Secondly:

“ Secondly : A *tacit* or *implied* compact,  
“ by all succeeding members of the state,  
“ who, by accepting its protection, consent  
“ to be bound by its laws ; in like manner,  
“ as whoever *voluntarily enters* into a pri-  
“ vate society is understood, without any  
“ other or more explicit stipulation, to  
“ promise a conformity with the rules, and  
“ obedience to the government, of that  
“ society, as the known conditions upon  
“ which he is admitted to a participation  
“ of its privileges.”

“ This account of the subject, although  
“ specious, and patronised by names the  
“ most respectable, appears to labour  
“ under the following objections ; that  
“ it is founded upon a supposition, false  
“ in fact, and leading to dangerous con-  
“ clusions.”

In support of his objections, he proceeds,  
in the first place, to contest the existence  
of the *express* compact stated and described  
above.

above. He observes (*d*) that “no social compact, similar to what is here described, was ever made or entered into in reality; no such original convention of the people was ever actually held, or in any country could be held, antecedent to the existence of civil government in that country. It is to suppose it possible to call savages out of caves and deserts, to deliberate and vote upon topics, which the experience, and studies, and refinements, of civil life alone suggest. Therefore no government in the universe *began* from this original.”

Afterwards he adds, in reply to those who propose this original compact, “not (*e*) as a fact, but as a fiction, which furnishes a commodious explication of the mutual rights and duties of sovereigns and subjects;” that, “if it be not a fact, it is *nothing*; can confer no actual autho-

(*d*) Elements of Moral and Political Philosophy, vol. ii. p. 132.

(*e*) Ibid. p. 134.

“ rity upon laws or magistrates ; nor afford  
“ any foundation to rights, which are sup-  
“ posed to be real and existing.”

The impossibility of repelling this attack on the existence and efficacy of Mr. Locke's *original* compact must be unequivocally acknowledged. It must be admitted that no such compact ever did or could exist in any country : that no government in the world has been thus established : and that a supposed fictitious compact can never create a substantial right. But it must also be remarked, that the existence or non-existence of this original compact is a matter of perfect indifference to the present argument ; and a speculation wholly unimportant to the existing members of any society. It has already been shewn, that every man is originally possessed of various rights by the immediate gift of God ; rights which no stipulations of his ancestors can shackle and abridge, since no earthly power can justly invade the gifts which any man has received from God, until he has consented to resign  
them,

them, or has forfeited them by his crimes. His birthright is not unalienable: but it is alienable only by himself. If therefore such an original compact had ever taken place, it would not have been obligatory on succeeding generations. They in their turn would enjoy from their Maker's bounty the same liberty with which their forefathers were endowed, of instituting such a form of government as they should deem for their advantage; of imposing on their native freedom whatever additional restraints, unknown to their ancestors, should appear conducive to the common good; and of modelling, of curtailing, and, if need should require, of annihilating, whatever had been termed the inherent and inextinguishable prerogative of their rulers.

The writer already quoted points his artillery in the next place against the *implied* compact. “(f) The native sub-

(f) Elements of Moral and Political Philosophy, vol. ii. p. 136.

“jects,” he observes, “of modern states  
 “are not conscious of any stipulation  
 “with their sovereigns; of ever exercising  
 “an election whether they will be bound  
 “or not by the acts of the legislature; of  
 “any alternative being proposed to their  
 “choice; of a promise either required or  
 “given; nor do they apprehend that the  
 “validity or authority of the laws depends  
 “at all upon their recognition or con-  
 “sent (g). In all stipulations, whether  
 “they

(g) It will shortly appear that this assertion, as applied to Great Britain, is totally unfounded. In the mean time the reader may perhaps be gratified by the refutation of it contained in the following extract, concerning the form of government of the Canton of Uri, (a form similar to that of some of the other small cantons) from *Facis's Political and Geographical Description of the whole Helvetic Confederacy*, part 2d, p. 157.

“The supreme power of the Canton resides in the body  
 “of the people assembled, or the commonalty of the  
 “Canton. Every male who has attained the age of four-  
 “teen has a right to attend in that assembly. In it is cen-  
 “tered the highest power of the state. In particular, its  
 “office is to discuss and resolve upon the public business of  
 “the Canton; to frame regulations; to change or abolish  
 “laws and oaths; to appoint magistracies and courts of  
 “justice;

“ they be expressed or implied, private or  
 “ public, formal or constructive, the par-  
 “ ties

“ justice ; to ratify alliances and treaties with foreign  
 “ princes and states ; to impose new taxes and duties ; to  
 “ regulate military preparations, and to put an end to  
 “ them ; to make peace ; to naturalize foreigners ; and to  
 “ name the annual officers of the state. The annual assem-  
 “ blies of the community are attended by the freemen with  
 “ their swords on. The time of holding them is the first  
 “ Sunday in May. The place of the assembly is (a mea-  
 “ dow) at Betzingen in the parish of Schattdorff, half a  
 “ league from Altdorff. For the principal magistrates,  
 “ councils, and the secular clergy, there is prepared a cir-  
 “ cular row of benches ; and the common people stand on  
 “ the outside. The Land-Amman in office, together with  
 “ the magistrates and councils, come in procession from  
 “ Altdorff on horseback, attended by the livery of the state.  
 “ The Land-Amman places on a table a box, in which is  
 “ contained the great seal, the book of laws, and the keys  
 “ of the archives and of the treasury. When prayers are  
 “ finished, which are said by the whole community on  
 “ their knees, the Land-Amman in office, after an intro-  
 “ ductory speech, lays before the assembly the business to be  
 “ transacted : but the community decides what business  
 “ shall be gone through on that day, and what shall be de-  
 “ ferred to a subsequent meeting. The first, however, that  
 “ is laid before them is the following : Whether they will  
 “ confirm for a year the book of laws—their courts of jus-  
 “ tice, councils, and all good customs ? Whether they  
 “ will determine, that whatever is transacted in these courts  
 “ by a majority shall be reckoned a majority (or the act of

“ ties stipulating must both possess the  
 “ liberty of assent and refusal, and also be  
 “ conscious of this liberty ; which cannot  
 “ with truth be affirmed of the subjects  
 “ of civil government, as government is  
 “ now or ever was actually administered.  
 “ This is a defect which no arguments can

“ the majority of the people) ; and that no power (particu-  
 “ larly an inferior one) shall infringe on another. These  
 “ points are generally resolved unanimously in the affirmative.  
 “ Thereupon the oath of allegiance is sworn, and the laws  
 “ are read. On every question the Land-Amiman in office  
 “ asks the opinion of the magistrates in order, and then that  
 “ of each of the community. As many different senti-  
 “ ments as are brought forward, so many different votings  
 “ are instituted. That sentiment which has the greatest  
 “ number of voices is taken for the law, and written down  
 “ as such. Proper officers stand on an eminence in order  
 “ to overlook the voters, and to determine, if possible,  
 “ which opinion has the greatest number of votes ; the votes  
 “ being given by lifting up the right hand. They declare  
 “ on oath which opinion has the majority ; and if they  
 “ cannot determine with certainty, then all the voters go  
 “ out of that place, and form themselves into as many divi-  
 “ sions as there are different opinions ; and each of these  
 “ divisions is counted man by man.”

It is obvious that this mode of government would be  
 impracticable in a large state, as well as wholly unsuitable  
 to its interests.

“ excuse



“ excuse or supply. All presumptions of  
“ consent, without this consciousness, or  
“ in opposition to it, are vain and erro-  
“ neous.”

If for a moment we should admit the statements contained in this extract to be in any tolerable degree accurate, or even accurate in their utmost latitude, they might shew that government has not *in fact* been established on the principle of the subject having given his consent; but they would not afford the shadow of an argument to prove that it can *justly* be established on any other principle. They contain not a single expression, which tends to prove a *right* in a civil governor to exact obedience, without having previously obtained the express or implied consent of the governed. The objection therefore might be at once dismissed, as totally irrelevant in an inquiry into the just foundation of civil government. In politics, as in all subjects, it is the business of the moralist to ascertain the right, not to settle the fact. And that

these may be very far removed from each other in the case of politics, the writer in question, in some parts of his work, has shewn himself sufficiently aware (*b*).

But these positions, if understood in that extent which the words in the preceding quotations seem naturally to imply, do not give an adequate representation of the case as it really exists. With respect to our own government in particular, the fact is in many instances the reverse of the preceding description. Not only do our ablest political writers inculcate the doctrine of civil government originating from the consent of the governed ; not only do the

(*b*) See the whole of the second chapter of book the sixth, and the first paragraph of chapter the third of the same book. In particular, it is expressly stated, in the first of those two chapters (vol. ii. p. 122), that *prescription* is in fact the foundation of most rights, perhaps of every right, in the apprehension of the multitude : yet the writer does not seem to think his own theory, that general expediency is the only just foundation of all rights, invalidated thereby. With what propriety then could he urge against another theory of right the want of the support of fact, even if such support were wanting ?

public

public speakers in both houses of parliament, however numerous, and however essential the topics may be on which they differ, universally concur in vindicating the native right of the people to frame their own system of government, and thereby at once manifest and guide the general opinion of the nation ; but almost every subject of the realm is apprized, that the sovereign at his coronation binds himself by a solemn oath to observe certain stipulations, imposed on the part of his subjects to mark the limits of his power ; and believes that the wilful violation of them would absolve him from allegiance. This principle is so well understood by Englishmen, and the signal recognition of it at the period of the Revolution has received such general applause ; that few could be selected even from the lowest and least enlightened classes, who would not think themselves released on this very principle from the obligation of obedience (however necessity might finally constrain, or personal motives lead them

them to acquiesce), if a British monarch were forcibly to establish the Roman catholic religion, or to transfer his dominions as a province to France (i). The preceding observations may be applied, in a greater or a less degree, to most, if not to all, European governments.

Further, it may be observed, with respect to most states in this part of the world, and particularly concerning our own, that every man is conscious that, if he continues in the dominions of the state, he must submit to its laws; and consequently by this continuance he tacitly and decidedly consents to obey them. And his consent is accepted by the state through the medium

(i) "As the terms of that *original contract*" (between the king and the people) "were in some measure disputed, it was after the Revolution judged proper to reduce that contract to a plain certainty. So that whatever doubts might be formerly raised by weak and scrupulous minds about the existence of such an original contract, they must now entirely cease.—As to the terms of the original contract between king and people, these I apprehend to be now couched in the coronation oath." *Blackstone's Commentaries*, 10th edit. vol. i. p. 233, 234.

of the laws, which describe what persons shall be considered as subjects. Whether he is aware of the contents of all, or of any, of these laws is a matter of no consequence to the argument. Does not the reader consider himself as under a general obligation to submit to the present laws of the land; though perhaps there may be few among them with which he is accurately acquainted?

But it may be said, numbers are little informed, or totally ignorant, respecting their original rights, and obey without consideration. Undoubtedly it must be owned that government is a system too complex, and too far removed from the common apprehension of the crowd, to make it possible that in any state it should be universally understood. The intelligent alone will have a complete insight into its principles and mechanism. Others, as they gradually descend in the scale of society, will entertain ideas more and more imperfect: until perhaps, in the very  
lowest

lowest class, both knowledge and curiosity, with regard to the just grounds of submission, may be almost extinguished. Nor is this partial ignorance peculiar to the subject of government. It prevails in a similar degree, and with consequences more to be lamented, with respect to religion. Yet neither in these, nor in any other examples, is any man divested of his native rights merely by the accidental circumstance of having lived in ignorance of them; nor precluded from reclaiming, when he attains to a due sense of his situation, the boon which he has received from Heaven. The slave, who has neither surrendered his freedom by his consent, nor forfeited it by his crimes, retains his title to it sound and unimpaired, though he may have toiled for half a century insensible of the injustice of his bondage: as the Indian preserves his claim to the blessings purchased for him by the death of Christ, though he never heard of the name or of the existence of his Redeemer.

As

As the subject is not divested of his natural rights by his ignorance of their existence ; so neither is the state deprived of its title to his obedience by the circumstance of his having consented to obey on erroneous grounds, provided it has not in some very criminal manner contributed to create or to prolong his blindness.

But “ if the (*k*) subject be bound only  
 “ by his own consent, and if the voluntary  
 “ abiding in a country be the proof and  
 “ intimation of that consent ; by what  
 “ arguments,” it is said, “ shall we defend  
 “ the right, which sovereigns universally  
 “ assume, of prohibiting when they please  
 “ the departure of their subjects out of the  
 “ realm ?”

In the preceding pages nothing has been advanced, which entails an obligation of defending every right assumed or exercised

(*k*) *Elements of Moral and Political Philosophy*, vol. ii.  
 p. 137.

by Rulers and Legislatures. The position, that the only just foundation of civil government is the consent of the subject, may be incontestably true, although the practice now mentioned should be utterly indefensible. It may however be remarked, that if the state find it essentially requisite, for the purposes of justifiable self-defence, or the justifiable defence of other countries under its protection, to prohibit, either by a law enacted on the particular occasion, or by a discretionary power vested in the hands of a deputed legislature or chief magistrate, the departure of its subjects out of the realm, lest they should assist the enemy with intelligence, with their property, or with their personal service; the imposition of this restraint is a just exercise of an actual right. It is a restraint which, under those circumstances, the state would be justified in imposing on every inhabitant of the realm, whether citizen or foreigner. The prohibition, whenever it is not requisite on the above-mentioned grounds, cannot



cannot be vindicated. But, if justifiable self-defence require the general law, and its operation should accidentally detain a particular individual, who might safely have been permitted to depart; the state, if it be unable to devise a test, whereby those persons whose departure would be compatible with its security may be ascertained, is no more culpable than he who should unintentionally wound a harmless passenger by discharging a pistol at an assassin. It would be more obviously unreasonable to accuse the state of confining the subject, and of exacting obedience without his consent, if poverty, or an accidental circumstance of a similar nature, should prevent him from leaving the country. If a tenant finds himself compelled to hold a farm against his will, by being unable conveniently to bear the expence of removal, or in consequence of having broken his leg; the landlord is not chargeable with detaining him, nor does he forfeit his title to the rent.

“ Still

“ Still (1) less is it possible,” we are told,  
 “ to reconcile with any idea of stipula-  
 “ tion the practice, in which all European  
 “ nations agree, of founding allegiance  
 “ upon the circumstance of nativity ; that  
 “ is, of claiming and treating as sub-  
 “ jects all those who are born within  
 “ the confines of their dominions, although  
 “ removed to another country in their  
 “ youth or infancy. In this instance cer-  
 “ tainly the state does not presume a  
 “ compact.”

It must again be observed, that this prac-  
 tice, and other practices of states, may be  
 diametrically opposite to the position, that  
 just government can be established only on  
 consent, and yet that position may be true.  
 What is right is often the reverse of what is  
 fact. Thus numberless actions arise daily  
 from motives the most depraved : yet obe-  
 dience to God is the only just principle of  
 conduct. It is needless to repeat the re-

(1) Elements of Moral and Political Philosophy, vol. ii.  
 p. 136.

fections contained in the preceding chapter, on the obligation of allegiance being founded on the circumstance of birth. It is proper however to remark, that the practice of executing as rebels those who are taken in arms against the country in which they were born, although they have been nurtured in a foreign realm from their earliest infancy, is to be vindicated on no plea, except on that of self-defence; and, without the strongest proofs of its being necessary for that purpose, cannot be rescued from the charge of barbarity and injustice.

They who deny the existence of a social compact usually make it their business to shew that its existence must involve consequences prejudicial to the happiness of the community. Thus it is said, that "Upon  
 " (m) the supposition that government was  
 " first erected by, and that it derives all its  
 " just authority from, resolutions entered  
 " into by a convention of the people, it is

(m) Elements of Moral and Political Philosophy, vol. ii. p. 138.

“capable of being presumed that many  
“points were settled by that convention  
“anterior to the establishment of the sub-  
“sisting legislature ; and which the legis-  
“lature consequently has no right to alter  
“or interfere with. These points are called  
“the *fundamentals* of the constitution: and,  
“as it is impossible to determine how  
“many or what they are, the suggesting  
“of any such serves extremely to embarrass  
“the deliberations of the legislature, and  
“affords a dangerous pretence for disputing  
“the authority of the laws.”

These arguments apply solely to the  
*original express* compact asserted by Mr.  
Locke, and others who have adopted the  
same idea. The non-existence, however,  
of any such compact has been already  
admitted. And it has been shewn that,  
even if it had existed, the present generation  
could not have been divested of their natural  
rights by the mere private stipulations of their  
ancestors. This objection therefore would  
not have been quoted, but for the purpose  
of subjoining the obvious remark ; that not

one

one of the bad consequences enumerated can possibly flow from the position that an individual, by voluntarily continuing in the state, *impliedly* consents to submit to the existing laws, and thus confers on the community a title to his obedience.

In the second place, it is affirmed, that “if (*n*) it be by virtue of a compact that the subject owes obedience to civil government, it will follow that he ought to abide by the form of government which he finds established, be it ever so absurd or inconvenient: he is bound by his bargain. It is not permitted to any man to retreat from his engagement merely because he finds the performance disadvantageous, or because he has an opportunity of entering into a better. This law of contracts is universal.”—“Resistance to the *encroachments* of the supreme magistrate may be justified upon this principle; recourse to arms, for the

(*n*) Elements of Moral and Political Philosophy, vol. ii. p. 139.

“ purpose of bringing about an amendment of the constitution, never can.”—  
“ Despotism is the constitution of many states ; and while a despotic prince exacts from his subjects the most rigorous servitude, according to this account, he is only holding them to their agreement.”

The validity of this objection rests wholly on the following presumption : that it is a necessary consequence from the assertion of a compact, that, whenever an individual becomes a member of a community, he thereby engages to abide by the system of government which he finds established, as long as his governors shall abstain from encroachments. Until this hypothesis be substantiated, until it be proved to be really the fact in each particular case to which the argument is applied, the objection has no pertinence or force.

Now when an individual enters into a civil society, his implied promise to obey the laws necessarily supposes that he is also  
admitted

admitted to enjoy the common rights of a member of the society. It is given, not, in the first instance, to the supreme magistrate or to the legislative body, but to the state at large ; and to the legislature only in virtue of its possessing the delegated authority of the state. The members of each community are the source and fountain of civil power : for civil power can be established on no just grounds except their original and previous consent. And their obligation to obedience is commensurate with the right, which they have themselves created in the legislature by a special grant of power, either express or implied. If therefore it be admitted in the case of any particular government, that the legislature has not transgressed its appointed bounds : yet, unless it can be demonstrated that the citizens have at some particular period deprived themselves of their natural right of reclaiming at their discretion this deputed authority, by entering into an engagement that the grant shall be irrevocable ; and unless it can be further shewn, that every

succeeding member of the state has also bound himself by the same engagement ; the whole of the objection falls to the ground.

That these engagements may exist in a particular civil society is certainly true. But that they do *necessarily* exist in every civil society is not surely to be presumed as self-evident. If the subjects of the Turkish empire were to demand an amelioration of their constitution ; what should we think of the logic of the Grand Visir, who should tell them, that they had evidently engaged passively to submit to unqualified despotism for ever ?

There is, in truth, no better reason for presuming that he, who, by voluntarily becoming a member of a community, gives the legislature a deputed power over him, does thereby engage for the perpetuity of the grant ; than there would be for concluding that he, who takes a house at a certain rent, does thereby engage  
to



to hold it during his life on the same terms; or that he, who voluntarily becomes the servant of another, does thereby contract never to quit his place, or to insist on making a fresh bargain, as long as his master uses him well, and pays him his present wages. Such extensive and permanent engagements can never be inferred from the existence of others of a limited nature. They must be proved by unequivocal stipulation.

The author already quoted argues further in the following manner: “ Every  
 “ (o) violation of the compact on the part  
 “ of the governor releases the subject  
 “ from his allegiance, and dissolves the go-  
 “ vernment. I do not perceive how we  
 “ can avoid this consequence, if we found  
 “ the duty of allegiance upon compact,  
 “ and confess any analogy between the  
 “ social compact and other contracts. In  
 “ private contracts, the violation or non-

(o) Elements of Moral and Political Philosophy, vol. ii.  
 p. 140.

“ performance of the conditions by one  
“ of the parties vacates the obligation of  
“ the other. Now the terms and articles  
“ of the social compact being no where  
“ extant or expressed ; the rights and offi-  
“ ces of the administrator of an empire  
“ being so many and various ; the imagi-  
“ nary and controverted line of his prero-  
“ gative being so liable to be overstepped in  
“ one part or other of it ; the position  
“ that every such transgression amounts to  
“ a forfeiture of the government, and  
“ consequently authorises the people to  
“ withdraw their obedience, and provide  
“ for themselves by a new settlement,  
“ would endanger the stability of every  
“ political fabric in the world ; and has, in  
“ fact, always supplied the disaffected with  
“ a topic of seditious declamation. If oc-  
“ casions have arisen in which this plea  
“ has been resorted to with justice and  
“ success, they have been occasions in  
“ which a revolution was defensible upon  
“ other and plainer principles : the plea  
“ itself is at all times captious and unsafe.”

On

On this statement it may, in the first place, be observed, that as in the case of a private contract between two individuals, notwithstanding the general rule that the violation or non-performance of the conditions by one of the parties vacates the obligation of the other, it may be further stipulated, or it may be tacitly but unequivocally understood between the parties, that not every breach of compact on the one side shall set the other at liberty, but only breaches of a certain kind or magnitude; so a similar understanding may clearly exist in a compact between a nation and its rulers. In fact, such an understanding is almost universally established. And, in the next place, even though it should be manifest in a particular state, that no tacit condition of this kind was understood or implied, but that any the smallest violation of the agreement on the part of the governors would authorise the subjects, according both to the letter and the spirit of the bargain, to resume the delegated power; yet that every such violation dissolves the

government is an inference which would by no means necessarily follow, and an inference which is contradicted by the analogy of other contracts. If a private person appoints an agent, under certain stipulations, to manage his affairs for an unlimited time; and the latter, in a particular instance, should knowingly transgress the bounds of his power; does it follow that his agency ceases from that moment? His employer has a right to displace him: but, if he passes over what has happened in silent acquiescence, the other continues in full possession of his office, and his future acts as agent are valid. This reasoning exactly applies to the situation of a governor and his subjects. He is their agent, with a prerogative in general by no means indefinite, but determined by the laws and usages of the land: and although he should in some instance overstep the limits of constitutional authority, yet he does not thereby cease at once to be governor. The people may discharge him from his office. But if they are induced by prudential considerations,

siderations, or by reflections on human weakness, to refrain; he continues to have as good a title to obedience from every member of the state as he had previously to the commission of the crime, for which he might have been deprived of his power (*p*).

As

(*p*) Dr. Paley points out certain inferences, which he affirms to be important, and to "result from the substitution of "public expediency in the place of all implied compacts, "promises, or conventions whatsoever." (Vol. ii. p. 143.) Whatever is valuable in them may easily be proved perfectly consistent with the principle of a social compact.

"It may be as much a duty at one time to resist government, as it is at another to obey it; to wit, whenever "more advantage will, in our opinion, accrue to the "community from resistance than mischief." The principle of a social compact by no means excludes the duty of resistance. On that principle, subjects have a *right* to resist; not indeed, as this quotation affirms, merely according to their ideas of expediency; but whenever the legislature exceeds the bounds of the authority with which it is intrusted, or persists in retaining that authority without possessing, either by stipulation or acquiescence, the consent of the community. And it is the *duty* of subjects to exert that right, whenever they are persuaded that the purposes of their being, one of the most important of which is to promote the welfare of all orders of the state, will not be answered by forbearance as effectually as by resistance.

"The

As they who controvert the doctrine,  
which ascribes the rights of governors to  
the

“ The lawfulness of resistance, or the lawfulness of a  
“ revolt, does not depend alone upon the grievance which  
“ is sustained or feared ; but also upon the probable ex-  
“ pence and event of the contest.” Or, as it is expressed  
afterwards : “ Not every invasion of the subject’s rights,  
“ or liberty, or of the constitution ; not every breach of  
“ promise or of oath ; not every stretch of prerogative,  
“ abuse of power, or neglect of duty by the chief magi-  
“ strate, or by the whole or any branch of the legislative  
“ body, justifies resistance ; unless these crimes draw after  
“ them public consequences of sufficient magnitude to  
“ outweigh the evils of civil disturbance.” The reader is  
requested to recollect the distinction already explained be-  
tween acts of duty to God, and of justice to men. The  
preceding quotations, considered as referring only to actions  
of the former class, are perfectly compatible with the prin-  
ciple, that consent is the only just foundation of govern-  
ment ; and are immediately deducible from the positions  
established in a former chapter of this treatise. The citi-  
zen, who resists usurped or tyrannical power, is guilty of a  
breach of duty towards God, if he resists when forbear-  
ance would equally have enabled him to accomplish the  
ends for which he was created. And it has already been  
observed, that to promote the happiness of others, and of  
those in particular with whom he is connected by natural  
or by social ties, is one of the most important of those  
ends. They who concerted the Revolution would not have  
been

the consent of their subjects, professedly  
rest their strongest arguments on certain  
pernicious

been guilty of injustice towards James, even though they had opposed him without having any prospect of success: but they would have flagrantly violated their duty to God, had they engaged in a hopeless or unpromising enterprise, which would necessarily have produced the calamities of civil war, and might have riveted more strongly the fetters of their fellow-subjects. Hence too what in one state may be justifiable resistance, may not be so in another; both because the terms of the contract between the governors and the governed may not be the same in each community; and also because resistance may be far more likely to be efficacious in the one case than in the other.

“ Irregularity in the first foundation of a state, or subsequent violence, fraud, or injustice in getting possession of the supreme power, are not sufficient reasons for resistance, after the government is once peaceably settled.” A peaceable settlement of the government proves that the subjects consent to the sovereignty of the prince on the throne, by whatever means he may have obtained possession of it. And they have in all cases a right to give this consent except it has been alienated or forfeited by their own act. The rule therefore is equally applicable, whether the right to govern be founded on consent or on expediency.

“ No usage, law, or authority whatever is so binding, that it need or ought to be continued, when it may be changed with advantage to the community.” It has been sufficiently shewn in the preceding pages, that every  
law,

pernicious consequences, with which they apprehend that doctrine necessarily to be burdened; and recommend, in its stead, the principle of general expediency as peculiarly favourable to human happiness; it may not be useless comprehensively to state the characteristic features of the two systems. The reader will judge whether the

law, whether it relates to the family of the supreme magistrate, the order of succession, the form and authority of the legislature, or the duties of the subject, is mutable at the will of the community; except as far as the members of the state have abridged, by particular stipulations, their natural right of altering the laws. The rule then, thus limited, is an immediate consequence of the position, which establishes the rights of governors on the consent of their subjects.

“The interest of the whole society is binding upon every part of it.” This rule, if confined to the internal regulations of the society, is surely in perfect consistence with a social compact. Few of the duties which an individual owes to God are of higher concern, than strenuous exertions for the welfare of those with whom he is united by the ties of social connection: and a similar conduct is in many cases required by strict justice. Yet however laudably his zeal may be exerted in enduring hardships, in submitting to losses, or in exposing himself to dangers, for the sake of his fellow-subjects; it must be scrupulously restrained to those cases, in which it will not be attended with a violation of the rights of other men.

respective



respective representations be fairly drawn; and will decide, whether the principle of expediency or of consent is the more favourable to the reasonable authority of government, and to the peace and welfare of the people. Seeming expediency has indeed been shewn not to be the criterion, by which the truth of moral principles is to be tried. But if a practical application of the rule of expediency as the standard, by which the rights and obligations of governors and subjects are to be decided, would apparently diminish the amount of general happiness; that rule, even were there no other arguments to be alleged against it, must be pronounced inadmissible and false, as leading to conclusions subversive of itself.

According to the principle of a social contract, subjects have a right to resist the legislature whenever it proceeds to an act of power unauthorised by the laws, and to resume at any period the authority which they have delegated, and to institute a new  
form

form of government, unless they have entered into an unequivocal stipulation to the contrary. These rights create a barrier against despotism under any mode of civil government, and afford ample scope for improvements in civil polity.

At the same time very powerful considerations, founded on moral duty, suggest themselves, which are naturally calculated to secure the sovereign power from the dangers of instability; and the community from the calamities, intestine discords, and civil wars, resulting from unnecessary attempts to effect a change in the constitution. Every subject is bound, as long as he continues a member of the state, to obey all such laws as the state has a right to enact, and determines to continue. And in estimating the propriety of resisting the encroachments of the magistrate, supposing encroachments to take place, or of abetting any alteration in the form of government, he is highly criminal in the sight of God, if a regard to the welfare of his fellow-subjects

subjects be not one of the motives, which have a principal influence on his mind.

But, though the prosperity of his country must be one of the leading objects of his care as a member of civil society; he is bound, as a being accountable to his Maker, to abstain from all attempts to promote it at the expense of justice. He is to remember that the rights of others are as sacred as his own. This consideration will guard him against being misled by erroneous conceptions of patriotism to support his governors in oppressive conduct towards foreign nations: it will guard him against being deluded by mistaken ideas of allegiance to concur in acts of tyranny towards his fellow-citizens.

On the principle of general expediency, the subject is to consider himself as having a right, and also as bound in point of duty, to resist the existing governors, whether lawful governors or usurpers is no matter, and to strive to effect a change in the con-

stitution, whenever such steps will, in his private opinion, conduce to the public welfare. In all other cases he is to submit to every thing, and to obey in every thing, without exception. He is taught that "the criterion of right is utility;" that "whatever is expedient (on the whole) is right;" that "it is the utility of any moral rule alone which constitutes the obligation of it (*q*);" that "there is no rule of morality which does not bend to exceptions," and that "the exceptions cannot be comprised within any previous description (*r*):" and that cases may arise (*s*) in which every moral rule is to be violated. He is to collect his duty as well as he can, not from any fixed principles of reason or of scripture, for expediency allows not any principle to be uniformly fixed and true; but from his own vague ideas of future contingences. However tyrannical then, unjust, or impious

(*q*) Elements of Moral and Political Philosophy, vol. i. p. 70, 71.

(*r*) Ibid. vol. ii. p. 411.

(*s*) Ibid.

the commands of the government may be ; if he should be ordered to destroy an innocent fellow-citizen ; to ravage the territories of an ally ; to embrace a religion which he knows to be idolatrous ; in all these cases, if he conceives that compliance will promote general expediency, compliance is his duty. Nay, he would have no less merit in betraying his country, in setting fire to her dock-yards, or in blowing up her legislature, to promote the designs of a foreign invader, if he should imagine that such a deed would, on the whole, be productive of advantage to mankind, than if, with contrary sentiments, he had hazarded his life in the breach for her defence. In like manner he is to deem himself bound to violate every law, even any law which he has personally engaged by promise or by oath on no plea whatever to disobey ; he is empowered, like Cade, to head a barbarous rebellion ; like Felton, to murder the favourite of the monarch ; like Damiens, to assassinate the monarch himself ; whenever his passion or his fanaticism induces him to

believe that these outrages will in the end be sanctioned by utility.

Nor is less latitude allowed by the principle of general expediency to the discretion of the governor than to that of the subject. The governor too has the full benefit of the rule, that there is no moral law which does not admit of exceptions; and of all the other commodious maxims recently quoted. "The reasoning (*t*) which deduces the authority of civil government from the will of God, and which collects that will from public expediency alone, binds us to the unreserved conclusion, that the jurisdiction of the magistrate is limited by no consideration but that of general utility: in plainer terms, that, whatever is the subject to be regulated, it is lawful for him to interfere, *whenever* his interference, in its general tendency, *appears*" (to the magistrate himself) (*u*) "to be conducive to the common

(*t*) Elements of Moral and Political Philosophy, vol. ii. p. 324.

(*u*) So it is said expressly, *ibid.* p. 327.

"interest."

“ interest.” He is therefore authorised to violate at his discretion all the rights of his subjects, by whatever solemn engagements he may have bound himself to preserve them ; he is obliged in conscience to trample on every law, human and divine, whenever such conduct is decidedly prompted by his notions of general expediency. If then he should be of opinion, that by assuming power in opposition to the will of the nation, and maintaining it by an army of mercenaries, he should promote the good of the people without impairing the happiness of mankind in general, he would feel himself completely justified in his usurpation. If he should also think that to lavish the blood of his subjects in an unjust war, and illegally to seize half their property to defray the charge of the enterprise, would be an additional advantage to them ; he would do no more than his duty in turning a deaf ear to their remonstrances, and in enforcing submission by the bayonet. Nay though he should not be able to satisfy himself that these pro-

ceedings would be for the interest of his people; yet if he should fancy that GENERAL good would in some way be promoted by them; or if he should endeavour to promote it by putting his subjects into the hand of a neighbouring potentate as vassals; by selling them for slaves to a company of foreign merchants; or by introducing among them Popery or Paganism, and enforcing its reception by inquisitorial persecution; in each of these instances, according to the principle of general expediency, he would regard himself as effectually meriting the gratitude of mankind, and the approbation of his God.



## CHAP. XIX.

## ON CIVIL LIBERTY.

WHEN you pass over a tract of land lying unenclosed and common, you may generally observe it cut to pieces by roads crossing it in every direction. As soon as a track becomes a little rough and inconvenient, a circumstance which speedily happens, when it is the business of every man to use, and of no man to repair, the next traveller, unconfined by fences, turns aside at pleasure to the right or to the left. The path which he marks out soon resembles the former; and prompts those who come after him to new deviations. So that in process of time the common, particularly in those lines in which interest causes it chiefly to be traversed, is overspread with roads of immoderate width, scored and ploughed up far and near with impressions of wheels, and despoiled of

such a portion of its herbage, as scarcely to keep alive the meagre sheep and cattle by which it is grazed: while the owners are squabbling among themselves, or perhaps contending with neighbouring parishes, about the extent of their unprofitable claims. This state of things represents natural liberty. Let the waste be enclosed and allotted to individuals, and a new scene presents itself. Passengers are no longer permitted to rove at their discretion. They are restricted to highways, formed of sound materials, and of decent but not extravagant breadth. All intrusion into private property is repelled by strong hedges, and by stronger laws. The fields are covered with luxuriant verdure, and filled with thriving flocks and herds. And thus the proprietors, by sacrificing some acres to roads and other public uses, and by exchanging their former indefinite rights for others of a limited nature, raise from the land twenty times as much produce as it furnished before, and enjoy what they raise

raise in peace and safety. This state of things represents civil liberty.

Wherein then does civil liberty, thus essential to political happiness, consist?

Natural liberty is unlimited. A man, disjoined from civil society, and living in a desert, might be as uncontrolled as the wolves around him. And in fierceness, cruelty, and rapine, the resemblance would soon be as decided. Perfect liberty to corrupt natures would be perfect licentiousness. This is not the liberty intended by Providence for man. Civil liberty, for which the human race is manifestly designed, necessarily includes the idea of restraint.

Liberty and restraint are opposed each to the other. What then are the limits of that restraint, which forms a part of civil liberty?

Almost every writer on the subject has framed a fresh definition of civil liberty.

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This circumstance excites a strong suspicion that most, if not all, of the definitions which have been given by different authors are inaccurate or obscure. It may in truth be said of nearly all of them, perhaps of all without exception, either that they describe something distinct from civil liberty, or that they are imperfect.

One writer, for example, affirms that civil liberty is the power of a state to govern itself by its own discretion, or by laws of its own making, without being subject to any foreign direction, or the interposition of any extraneous will or force (*x*). This definition evidently belongs to a state considered as to its external relations, not as to its internal polity. It is a definition, not of civil liberty, but of national independence.

Other writers interpret civil liberty as consisting in the separation of the legislative from the executive branch of government ;

(*x*) Dr. Price's Observations on Civil Liberty, &c. part 1. sect. 1.

or in the purity of the representative system ; or in the right of taxation being vested exclusively in the representative body ; or in the control of the military establishment being committed to that body : circumstances which cannot properly be said to constitute civil liberty, however they may tend to its preservation.

Montesquieu describes civil liberty (y) as the right of doing whatever the laws permit ; a definition so imperfect, as to be equally applicable to Great Britain and to Turkey, to all states which are governed by laws, whether those laws are good or bad, just or unjust.

Civil liberty is said by another writer (z) to consist in “ not being restrained by “ any law but what conduces in a greater “ degree to the public welfare.” This definition, even if it be accurate as far

(y) *Esprit des Loix*, l. xi. c. 3.

(z) Dr. Paley, *Elements of Moral and Political Philosophy*, vol. ii. p. 164.

as it extends, is manifestly imperfect ; as it provides not for the important point, that the authority which imposes the restraint should be legitimate. It enquires not whether that authority be despotic or limited, constitutional or unconstitutional, domestic or foreign ; in other words, whether the country be governed by a rightful prince or by an usurper, by an independent legislature, or by foreign power. It describes a state as by some means under the actual control of judicious laws. But it omits what is necessary to complete, or rather to comprehend, the idea of liberty.

Liberty necessarily includes the idea of choice. This idea, attached to liberty in general, adheres to it under each of the subdivisions into which it branches. When you speak of a free agent, you mean a person who has the power of choosing between two or more different modes of action. Liberty of conscience implies the power of choosing between different modes  
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of religious worship. Liberty of speech, the liberty of the press, and all other ramifications of liberty, involve in like manner the power of choice. The same power is essential to civil liberty. All those writers who, by their definitions of civil liberty, whatever may be the terms employed, do in fact represent it as meaning no more than that you are governed well, omit this indispensable ingredient, choice. Without choice it is impossible that liberty can exist: I mean not democratic licence, but temperate, rational, and christian liberty. For choice is the very mark of discrimination, which distinguishes liberty from slavery. If you have no choice as to obeying the laws to which you are subjected, you are in subjection to them by compulsion. That is the description of servitude. How does your condition differ from that of a slave? You reply, that you are governed by fixed and salutary laws. Then you have a master who is neither absolute nor unkind. So have many slaves in the West Indies, many convicts on board the

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the hulks or at Botany Bay. What choice have you as to the laws? To obey them or to be hanged. A slave has the same choice. Where then is your liberty?

Other political writers, perceiving that choice is inseparable from liberty, have described civil liberty as consisting exclusively in being governed by laws to which you have given your consent. Several definitions of this nature might be specified. But it will be sufficient to observe in general terms concerning them, that they labour under one or both of the following defects. First, they virtually represent despotism or slavery as a state of civil liberty. For you may consent to live under an absolute monarchy, or to be a slave. Secondly, they omit a circumstance no less essential to civil liberty than choice itself; namely, that the laws must be equitable and wise. Without wise and equitable laws there can be no real liberty. This is a truth, which Reason and the Scriptures unite in confirming. The name may exist; but the supposed



posed substance will prove a shadow. Were every individual in a community to exercise an actual right of suffrage on every law, by which he was to be governed; yet if the laws which he should thus sanction should be partial and oppressive in their nature, and unadapted to the circumstances of the state, he would lead, under their controul, the life of a slave, or by their aid would impose on his neighbour a yoke analogous to that of slavery.

It appears then that two propositions are necessarily included in the description of civil liberty. First, That the subject should have a choice as to being governed by the laws. Secondly, That the laws should be wise and equitable. The consent of the subject is of itself insufficient: because he may consent to laws incompatible with the existence of civil liberty. The equity and wisdom of the laws are also of themselves insufficient: because a slave, who has no civil liberty, or a convict whose civil privileges are suspended, may be under the govern-

government of laws of that description. Unite the two positions together, and the description of civil liberty will be complete.

Civil liberty therefore may be defined thus. It consists in being spontaneously governed and protected by wise and equitable laws.

In what manner then, it will be demanded, is the choice essential to civil liberty to be manifested? Is it requisite that each individual should consent in his own person to the laws, separately or collectively? Or is it sufficient if he consents impliedly by his representatives? Or is it enough, if he spontaneously acquiesces in the laws, and proves his acquiescence by remaining in the country? Provided that consent on the part of the subject be substantially manifested, the mode is a matter of indifference. To confirm laws by individual suffrage would be a plan alike impracticable and undesirable. To assent to them

them through the medium of representatives is a method advantageously practicable to a considerable extent. To testify assent by spontaneously remaining in the country with a consciousness that, if you remain, you must be governed by the laws of the land, is practicable universally. And he who gives this testimony, gives a testimony as decisive as he could have conveyed by individual suffrage on every law.

Observe now how clearly and firmly civil liberty is established on its proper principles in Great Britain. The general equity and wisdom of the laws are facts, which, I presume, will not be controverted. With respect to consent on the part of the subject, the chimerical plan of universal suffrage is properly exploded by the constitution. The powers of expressing consent through the medium of a representative body pertains directly to a large proportion of the community. It might with truth be said to pertain virtually to a much larger proportion. But not to dwell on that topic, every inha-

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bitant of the land knows, that, if he continues in the country, he must obey the laws; and that he is at liberty, if he thinks proper, to depart (*a*). His continuance then is an unequivocal assent to the laws; and fully proves him to exercise the choice essential to civil liberty.

That neither the prohibition of the departure of persons who have actually committed, or are strongly suspected of having committed, crimes; nor a general prohibition extending to all subjects in time of war, or in a similar emergence, is a viola-

(*a*) The last statute prohibiting the subject from leaving the kingdom at his own discretion was repealed in the reign of James I. Blackstone's Commentaries, 10th edit. vol. i. p. 266. The common law leaves the subject equally unrestrained. *ibid.* 265. There appears no reason to fear lest the power of occasional prohibition vested in the crown should be materially misapplied. That the acts of Parliament which restrain certain manufacturers from quitting the kingdom, and carrying their industry to the market which they deem the best, are not in strict union with the principles of civil liberty, must be confessed. They are justly reprobated by Dr. Adam Smith. *Wealth of Nations*, 5th edit. vol. ii. p. 513, 514.

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tion of civil liberty, are points on which it is unnecessary to enlarge. In other cases laws against emigration are commonly incapable of being justified.

Civil liberty plainly admits of gradations. Choice on the part of the subject may subsist even under certain degrees of bias and control. And laws, though inferior in equity and wisdom to others established elsewhere, may still deservedly be denominated equitable and wise. Hence countries possessing different portions of freedom may yet merit the denomination of free states. Civil liberty is entirely extinct, when the subject possesses no degree of choice, not even as to remaining or not remaining in the country; or when the laws possess no equity nor wisdom. This description is not literally applicable to any subsisting form of government, even the most despotic. Again, in strictness of language, civil liberty is then perfect, when the choice of the subject is not under any degree of external influence, and when the laws are in every

particular completely equitable and wise. But such civil liberty ought not to be expected. Perfection belongs not to any thing upon earth. Hence appears the folly of precipitately quarrelling with any constitution, because, like every thing human, it may have its blemishes ; if notwithstanding it provides substantially and effectually for the maintenance of a high degree of civil liberty. And that folly becomes greater and more criminal, if the constitution contains within itself the means of temperately and peaceably applying a remedy to any material defect, which shall be discovered.

Some modern writers have endeavoured to establish a distinction between civil liberty and political liberty. It might easily be shewn that the definitions, which have been framed on that idea, have tended only to obscurity and confusion. The distinction is, to say the least, wholly needless. And every needless subdivision of any science contributes to render that science complex, abstract, and of less practical utility.

## CHAP. XX.

## GENERAL APPLICATION OF THE WHOLE.

IN the distribution then of those original rights, by the use and disposal of which the general purposes of human life are to be accomplished, the Creator of mankind appears from the preceding investigations to have beheld all his children with an impartial eye. On every individual exempted by maturity of age from the dominion of his parents, and endowed with that degree of reason which distinguishes the moral agent from the idiot and the lunatic; he has equally conferred (*b*) certain specific rights,

(*b*) The original equality of all men in certain natural rights is a truth which has of late become undeservedly obnoxious to many persons (and we cannot be surprised at the circumstance), on account of the conclusions which have been represented as flowing from it. Many of those inferences are totally unfounded, and altogether subversive of the peace and happiness of society. But their falsehood does not prove the principle to be false from which they are erroneously affirmed to be deducible. As well might

rights, anterior to human functions, and, until they may fairly be deemed to have been

it be inferred that the Christian Religion cannot be true, because it has been supposed to authorize persecution. The principle itself is not only found to pervade every bosom among rude and uncultivated tribes; but it approves itself to the researches of sober and enlightened reason, and is corroborated by the inspired dictates of revelation.

Sir William Blackstone, in his Commentaries on the Laws of England, maintains in decided terms the equality of all men in natural rights, whether born in civil society or not. "By the absolute rights of individuals we mean those which are so in their primary and strictest sense; such as would belong to their persons merely in a state of nature, and which every man is entitled to enjoy, whether out of society or in it."—"The principal aim of society is to protect individuals in the enjoyment of those absolute rights which were vested in them by the immutable laws of nature."—"Hence it follows that the first and primary end of human laws is to maintain and regulate these *absolute* rights of individuals. Such rights as are *social* and *relative* result from and are posterior to the formation of states and societies; so that to maintain and regulate these is clearly a subsequent consideration. And therefore the principal view of human laws is, or ought always to be, to explain, protect, and enforce, such rights as are absolute."—"The absolute rights of man, considered as a free agent, endowed with discernment to know good from evil, and with power  
" of



been resigned or forfeited by their possessor,  
not to be infringed without injustice by

“ of choosing those measures which appear to him to be  
“ most desirable, are usually summed up in one general  
“ appellation, and denominated the natural liberty of man-  
“ kind. This natural liberty consists properly in acting as  
“ one thinks fit, without any restraint or control, unless  
“ by the law of nature ; *being a right inherent in us by birth,*  
“ and one of the gifts of God to man at his creation,  
“ when he endued him with the faculty of free will.”  
Commentaries, 10th edition, vol. i. p. 123—125.

The unimpaired existence of these original rights, until they are forfeited or resigned by some act of the individual, is indeed so obvious a truth, that even in dark and superstitious ages it has been publicly recognised by men, who from their situation would be little inclined to acknowledge it. In the sixth century Pope Gregory the Great expressed himself thus : “ *Salubriter agitur si homines, quos ab initio*  
“ *liberos natura protulit, et jus gentium jugo substituit*  
“ *servitutis, ei in qua nati fuerant libertati manumittentis*  
“ *beneficio reddantur.*” Robertson's History of Charles V. 8vo. 1782, vol. i. p. 312. And in the fourteenth century Louis X. and his brother Philip issued ordinances opening with a declaration that *all men are by nature free-born* ; and on that ground providing for the enfranchisement of slaves. *ibid.* p. 48. The justly celebrated historian, from whom these extracts are taken, builds much of his reasoning respecting servitude on “ the doctrines which Christi-  
“ anity teaches concerning the original equality of man-  
“ kind.” *ibid.* p. 322.

human authority. To the unrestrained employment of his bodily and mental powers in the acquisition of food, of materials for shelter and for cloathing, and of any other unappropriated productions of the earth; in defending himself when unjustly attacked; in regaining what is unjustly withheld from him; in exacting equitable security against future injuries; in gratifying every inclination, by the indulgence of which he neither invades nor endangers the rights of others: the native of the old world and of the new, the inhabitant of the tropical and of the polar regions, the fair-complexioned European and the sable African, the son of the slave and of the monarch, have naturally an equal title; and a title independent of the private will and the public conventions of their ancestors or cotemporaries. It is by the exercise of these rights, or of other rights which are accepted in exchange for such of them as are resigned, that every man is to fulfil the various duties which his God requires at his hand. By employ-  
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ing them in a manner prejudicial to himself; by neglecting or refusing to exert or even to surrender them for the benefit of others, he may incur the highest degree of guilt in the eyes of his Creator and Judge, although he should scrupulously abstain from violating the rights of his neighbour. Yet the use and disposal of them being committed to his own discretion, (a discretion for the exercise of which he is finally responsible to God,) under the single limitation of refraining from every degree of injustice; no earthly power is entitled to deprive him of them, while he adheres to that fundamental restriction, without the sanction of his express or implied consent.

It is true that the capacity of exerting these original rights, and of deriving from them the advantages which they seem calculated to afford to their possessors, is allotted to different men in different degrees. Numbers, in consequence of the place or time of their birth, their bodily constitution, the condition of their parents, and a vari-

ety of other external circumstances not resulting from their own conduct, find even the necessaries of life difficult, and its ordinary comforts scarcely possible, to be procured ; are unacquainted, if not with the bare possession, yet with the common fruits, of liberty ; and think of ease and competence either with faint and distant expectation, or with a fixed despair of attaining to blessings apparently forbidden to them, and reserved for the peculiar favourites of Providence, born in more auspicious stations, or dwelling under a happier sky. While others, by means of events equally accidental with those which in some countries thus depress one part of mankind almost to a level in several respects with the beasts of the field, find themselves possessed, without an effort, of the means of supplying the various wants of nature ; of acquiring every reasonable indulgence, every superfluous gratification ; and of applying to their own benefit the labour and skill of multitudes of their fellow-creatures, even though placed in a different quarter of  
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the globe. Now, though the actual right to a thing, and the opportunity of turning that right to the best advantage, are two things radically and totally distinct, and are every day seen and acknowledged so to be in the ordinary transactions of civil society; the want of discriminating between them in the case of natural rights has been a principal reason, that the equality of men in the natural rights, which have been investigated in some of the foregoing chapters, has been occasionally unperceived or denied. Yet it is as unreasonable to deny the original equality of all men in those natural rights on the ground that Providence has placed men in extremely different circumstances of life, and that the welfare of mankind necessarily requires such a disposition of them, as it would be to maintain on the other hand the dangerous and utterly false proposition, which we have heard affirmed, and seen in some measure acted upon; that because men are originally equal in natural rights, therefore distinctions of ranks in society,

society, and the unequal distribution of property, are repugnant to natural justice.

As it has been already shewn that consent, expressed or implied, is the ground on which civil government ought to be established ; so it has also appeared evident that consent was the ground, on which civil government was in fact established. This latter position may receive additional confirmation by referring to the writings of Cæsar, Tacitus, and other ancient authors, who have described the early state of society among the Germans, the Goths, and the rest of the old inhabitants of Europe ; and to the ample information communicated to the public by historians and travellers, who have delineated the actual situation and manners of the rude tribes of the continent of North America and of New Holland ; in some of which tribes the first rudiments of civil government are just discernible, and in others the progress of subordination is but little more advanced.

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The objects of government would in the outset be few and simple. Natural liberty would be restrained only so far as was necessary for the defence of the tribe against its enemies. Afterwards some regulations for its internal tranquillity would be adopted. In process of time, experience would evince the propriety of restraining natural liberty still further; in other words, of making a further exchange of natural rights for civil rights instituted in their (c) place: until, at length, in the revolution of ages, government and laws would naturally assume that complicated form, in which they now subsist in extensive and long established empires. The several stages of this progress may be distinctly traced in the authors to which the reader has been referred. The consent

(c) Thus Sir William Blackstone defines the rights of Englishmen to be “either *that residuum of natural liberty*, “which is not required by the laws of society to be sacrificed to public convenience; or else those civil privileges, which society hath engaged to provide in lieu of “the natural liberty so given up by individuals.” *Commentaries*, vol. i. p. 129.

requisite

requisite to justify each step would sometimes be expressed by open declaration ; but more frequently would be tacitly (*d*) implied.

Whatever were the form of government established, and whatever changes had been made in it, each person who should choose to remain in the society, and avail himself of the rights and privileges of a citizen, would thereby give a decisive proof of his assent to the existing constitution, and acknowledge his obligation of rendering complete obedience to it as long as he should continue under its protection. For he could not but know that its protection was offered only on the reciprocal condition of

(*d*) Dr. Robertson, in his History of Charles V. vol. i. p. 257, after observing that every freeman among the barbarous conquerors of the Roman empire in Europe became bound under considerable penalties to take arms in defence of the community to which he belonged, has the following just remark : “ I do not mean that any contract  
“ of this kind was formally concluded, or mutually ratified by any legal solemnity. It was established by *tacit*  
“ *consent*, like the other compacts which hold society together.”

obedience



obedience to all the laws ; and that a voluntary acceptance of the one was a confession of his engaging to return the other.

In process of time, as the children of the members of the society should successively arrive at such an age as no longer to be subjected by nature to the dominion of their parents, each would find himself at that period invested by his Creator with the natural rights conferred on all mankind ; and would be entitled to the unrestrained disposal of them, until he should forfeit them by invading the rights of others, or should voluntarily consent to abridge them. He would therefore be authorised at his discretion to unite himself with the society formed around him, if it were willing to receive him within its pale ; or to seek admission into any other community. If without further enquiry he should continue in the society, taking upon himself the common privileges of a citizen, and meeting with no obstruction from the legislature ; these facts would be a sufficient testimony

mony of his desire to be enrolled among the members of the state, and of the society's consent to receive him.

As no man, who had not forfeited his rights by perpetrated or intended crimes, could justly be compelled against his will to become a member of the society; so no person of that description could justly be obliged afterwards to continue a member, unless he had previously agreed to surrender, either altogether, or to a certain degree, his right of departing. It is possible to conceive one of the laws to enact that every man who enters into the community shall be bound to continue in it unto his death, or during the pleasure of its governors. Or supposing the laws to be silent on the subject, it may yet be mutually understood among the members of the society that he who shall deliberately remain within the protection of the state for a certain time (and the appointed period may be very short), shall be deemed to have tacitly agreed never to abandon his fellow-citizens.

citizens. When a person has placed himself in either of those situations, his obligation not to quit the society without permission is unquestionable, until in the one case the law is repealed, or in the other, the implied agreement is explicitly annulled. But no vague surmise, no slender presumption, will be sufficient to justify the conclusion that a particular individual has actually involved himself in an engagement of that nature. It is an engagement which requires to be proved by clear and positive evidence. If on grounds which fall short of satisfactory proof he is constrained to continue a member of the society, he is imprisoned: and whether he be imprisoned within the limits of a dungeon or of an empire, it is alike an unjust infringement of his liberty.

It has been affirmed, that he who in a time of public emergency should desire to resign his rights of citizenship, and to quit the community, might justly be detained, though free from all suspicion of hostile

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intentions, on the *mere* ground of a return being due from him to the state for its previous protection. Yet surely this is an insufficient plea, whether it be meant that the return is due for the protection which the individual received during his childhood; or for that which he has enjoyed since he arrived at years of discretion, and has become an active member of the community. To the first argument it might not perhaps be unreasonable to reply, that the protection afforded to the child was a debt due from the state to the parent; and consequently, that no compensation could afterwards be exacted or required. But without insisting on that ground, however tenable, it is sufficient to remark, that although the community may have defended the helpless infant in expectation of reaping in due time the advantage of his services; yet no contract whatever as to any future recompence from him was or could be made. The child was unable to enter into any engagement: and the parent could not engage for the conduct of the child

child longer than his own right of controlling it should continue in force. For every act of kindness experienced from the state, a debt of gratitude may have been incurred by the child. But debts of gratitude are from their very nature not to be recovered by (e) compulsion. In answer to the other argument it may be observed, that the debt which every citizen may be said continually to incur by receiving protection from the state, he at the same time discharges, by contributing in his own station to the general security. He has at all times a just demand on the community for complete protection; and more he cannot have received. Or if we suppose some especial favour to have been conferred on him by the state, no return,

(e) "By our *exactions* of gratitude, and our frequent proposals to *enforce* its observance, we only shew that we have mistaken its nature." Dr. Ferguson on the History of Civil Society, 5th ed. p. 146. So also Dr. Paley states, that "in the instances of gratitude, affection, reverence, and the like, force is excluded by the very idea of the duty, which must be voluntary, or not at all." Vol. i. p. 91.

except it were stipulated, is due from him as a debt of *justice*, and to be exacted by force. His conduct however in leaving the community in the hour of danger, though not an infringement of the rights of the other members, may be so ungrateful and hard-hearted, as not to be less criminal in the sight of God, than a direct infringement of their rights would have been.

The first effect, or rather the immediate object, of the formation of laws respecting the internal administration of a community, is to substitute the authority of public justice in the place of the exercise of private force. The latter is generally prohibited in all cases of injury, except in those for which, from the peculiarity of their nature or of the circumstances attending them, the laws cannot provide adequate means of prevention or (f) of redress. In such it is usually  
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(f) This distinction is wisely taken by the Laws of England. "The fifth and last auxiliary right of the subject that I shall at present mention, is that of having  
" arms

and properly allowed. These excepted cases apart, the law claims exclusively to itself the conduct of every proceeding for the defence of rights which are attacked, for the acquisition or recovery of such as are withheld, for obtaining reparation for injuries received, or security from those which are apprehended. And in all these instances it extends its view beyond the concerns and the particular interests of the individual whom it assists, or whom it chastises, to the general benefit of the community; and scruples not peremptorily to require private sacrifices, when they are requisite for the main object which it pursues, the safety and advantage of the whole body politic. To such sacrifices no individual can justly object. For he has sanc-

“ arms for their defence suitable to their condition and degree, and such as are allowed by law. Which is also  
 “ declared by the same statute 1st W. & M. st. 2. c. 2.  
 “ and it is indeed a public allowance under due restrictions of the natural right of resistance and self-preservation, when the sanctions of society and laws are  
 “ found insufficient to restrain the violence of oppression.”  
 Blackstone's Comm. vol. i. p. 143.

tioned by his previous consent the authority by which they are enjoined; and has given it a discretionary power (a power more or less limited in different states according to their several constitutions) of adapting its legal provisions to the general welfare of his fellow-citizens, rather than to his own individual benefit.

Thus with respect to the defence of rights attacked, the law points out the manner in which application is to be made for its assistance; the particular tribunal before which the supposed offender is to be brought; the sort of proof necessary for his conviction; and the various steps which he shall be at liberty to take for his vindication.

With regard to the restitution of rights withheld, the law settles the forms and circumstances which shall attend it. And if the rights should be in themselves incapable of being restored, the law determines the nature and the amount of the indemnification;



fication ; whether it shall be rendered in property or in service ; whether a longer or a shorter time shall be granted for its completion ; whether any species of property shall be in any degree exempted from the claim ; and whether the claim, if not fully satisfied by the offender, shall in any case attach on some part of his family.

So likewise with respect to punishment, the law pronounces the kind and the degree, which shall be the consequence of each crime when legally proved ; varying the one and proportioning the other according to the age, the sex, the rank, and the fortune of the criminal ; studying the reformation of the offender, and particularly, the general prevention of crimes ; and for the latter purpose frequently inflicting a chastisement more painful or more disgraceful than could have been justly inflicted on the offender in a state of nature, but a chastisement now rendered perfectly just by means of the previous consent already explained. Hence in the progress of civil

society capital punishments may be warrantable in cases, in which but for the circumstances recently mentioned they would be unjustifiable. No cause, however, which falls short of unavoidable necessity will vindicate the infliction of death. To this conclusion the mere politician and the Christian legislator will equally assent: the politician, because death deprives the state of a subject, who might have become useful; the Christian, because it deprives an immortal being of the means of further repentance. Yet there exists in almost all states a strong and obvious temptation to multiply capital punishments. To provide other means for chastising and restraining the offender requires thought, and wisdom, and vigilance, and exertion. It is easy to dispose of him by death.

The law proceeds in a similar manner as to property; and the justice of its institutions is manifest on the principles which have been stated above. It requires every man under its protection to relinquish his  
general

general right of occupancy; and to be contented to hold and acquire property according to such modes and conditions as are legally appointed. It creates such general or local rights, privileges, and immunities, and imposes such general or local restrictions and limitations, as it deems likely to promote the security, peace, industry, and virtue of the community. It institutes the right of testamentary bequest: that is to say, it requires every individual to abstain from exercising his natural right of seizing the possessions of the deceased, which on his death naturally become open to the first occupant, and to permit them to be taken by the person indicated by the declared wishes of the testator, or, in default of such a declaration, by the law itself. On the other hand, it limits, as it thinks fit, the testamentary right which it has created; prescribing the forms requisite to render a bequest valid; restraining the testator, in certain cases, from leaving all his property to strangers; and perhaps requiring those who inherit to undertake,

undertake, in return for the property which it has secured to them, to discharge certain pecuniary obligations of the late possessor. It is thus that a mortgage, or other similar contract, becomes efficient, notwithstanding that the rights of the late owner over the land were all extinguished by his death.

Lastly ; observations, resembling those by which the operation of the law, and the justice of its proceedings with respect to the several subjects already considered have been explained, may be applied to the case of promises, and all other engagements. The law determines the objects, the forms, and the specific obligation of every engagement, and the penalty which shall attend the breach of it. The law may without injustice render a man liable, if it thinks fit, to the performance of promises made by another, as a son to a promise entered into by his father ; or may bind a person to fulfil a promise made in such circumstances as, for example, in a state of intoxication, that naturally he would not have been bound to perform

perform it. Or, on the contrary, it may refuse to lend its aid to enforce engagements, which are naturally binding. Thus it may shut its courts of justice against all suits designed to obtain the performance of an usurious bargain, or an extorted promise: and may even inflict a penalty on the party, who has led or compelled the other into such an engagement.

The preceding remarks may perhaps have disposed the reader to reflect on the greatness of the blessings, which may result from just and wise laws equitably administered. He will in vain seek throughout the world a more striking example of those blessings, than that which is offered to him in Great Britain.

## CHAP. XXI.

## ON THE LAW OF NATIONS.

**T**HE principles of morality having been considered with a reference to the conduct of individuals, it remains to apply them to the transactions of independent nations.

The law of nations means the system of rules, to which two or more independent nations are reciprocally bound to conform in their mutual intercourse. This system of rules may be distinguished into two parts: the first comprising those rules, which are obligatory previously to any agreement, expressed or implied, between nations: the second consisting of those, which are established either by a direct or an indirect convention.

I. Those rules, which a nation is bound to observe in its conduct towards another, independently of any agreement, are the principles

principles of natural morality as confirmed and illustrated by religion ; or, in other words, supposing the nation to profess Christianity, the rules of justice and benevolence, as deduced by reason, and established and explained by the Scriptures. These rules are binding on a Christian nation, whether the other nation with which it has dealings does nor does not profess Christianity ; and whether, if professing Christianity, it does or does not reciprocally practise them. For neither the speculative incredulity, nor the practical disobedience, of one party can release the other from the obligations imposed by a religion, which it believes to be true.

Nations are individuals to each other. The same principles of moral duty are obligatory, according to the principles both of reason and of religion, between nation and nation, as between man and man. The mode of applying them may vary in the two cases, in consequence of a diversity between the objects, to which they are to be

be applied. But the general principles of duty are universally the same. If an individual is bound in point of justice never to use force, or, what in civil society commonly stands in the place of force, the arm of the law, against his neighbour, except in the defence or for the security of the actual rights of himself or of others under his protection; that is to say, for the defence of those rights when attacked or threatened, for the recovery of them when withheld, or for the purpose of obtaining indemnification for injury sustained: a nation cannot conscientiously resort to arms, except it be precisely under parallel circumstances. If the individual is bound, before he adopts any mode of compulsion, to try all amicable methods in his power for the purpose of procuring redress; if he is bound during the whole course of the contest actively to renew, at every favourable opportunity, proposals for a fair accommodation, and cordially to receive them, whether his affairs be in a promising or an unpromising train, whenever he believes the offer to be made  
with



with sincerity ; so is the nation. If the individual is bound to desist from the use of compulsory means as soon as the object, which rendered them justifiable, is accomplished ; that is to say, as soon as he has obtained reparation for detriment incurred, and reasonable security against future aggression ; so is the nation. If the individual is bound, on the conclusion of the dispute, faithfully to abide by every engagement or treaty into which he enters ; and never to seek to strain it to an undue interpretation, whatever advantage the establishment of such an interpretation would procure to him ; so is the nation. Again, with respect to the duties which fall under the head of benevolence, the case of the individual and that of the nation are the same. If the former is bound to be ready even to wave a part of his own just claims rather than distress others ; to promote their honest undertakings, and gratify their reasonable wishes ; to feel satisfaction in their welfare ; to compassionate and, according to his ability,

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to alleviate their calamities; so is the nation (g).

Nations are so frequently alienated each from the other by jarring interests, rival pretensions, and mutual causes of complaint; that men are with difficulty brought to acknowledge the individual duties of morality to be strictly binding in their public intercourse with foreign communities. They confess that there are certain points, concerning which they are much more disposed to deal in general terms than to descend to particulars, proper to be reciprocally observed by nations. But when urged to a practical application of their own rules, they appear to think that almost any of the real faults which the other party has committed, or of the faults which it may be supposed to have committed, or to be likely to commit, gives to themselves a fair

(g) Pecuniary bounty is, on fit occasions, not less a national than a private duty. A laudable example of this kind was set by Great Britain on the occasion of the earthquake at Lisbon.

and

and full exemption from the common obligations of morality towards the nation in question : and that if they should still think proper to conduct themselves towards it in some measure on equal terms, they may take credit to themselves for singular forbearance and generosity. Swayed by the immoderate timidity of caution, by a proud thirst for superiority, or by the selfishness of commercial avarice; sentiments and dispositions which they shelter under the name of Patriotism ; they usually seem to regard themselves as warranted to depress other nations as low in the scale of strength and mercantile advantages as decency and opportunity will permit.

Many, who admit that the rules of justice are of universal and indispensable obligation, are yet of opinion that the scriptural injunctions to forbearance and kindness do not reach to the case of a nation in its transactions with another nation. Why do they not reach to that case? Are we not

all of one blood (*b*)?" "Have we not all one Father? Hath not one God created us (*i*)?" Are we not all brethren, common parts of the great family of the Father of the universe? When the Scriptures say, "Thou shalt love thy neighbour as thyself;" to whom do they address the command? To you, and to every man; to every individual, therefore, of the nation to which you belong. And who is your neighbour? Turn to the parable of the good Samaritan and read the answer. Every man to whom you can do good, every man with whom you have any the slightest intercourse, is your neighbour. He whom your countrymen regard with the strongest national aversion, political and religious, he, whose name they use as the most contumelious byword and proverb of reproach, is your neighbour. The Dutchman, the Spaniard, the Frenchman, is your neighbour. The Hindoo, the Turk, the Algerine, the

(*b*) Acts, c. xvii. v. 26.

(*i*) Malachi, c. ii. v. 10.

Hottentot, the Negro, is your neighbour. Take every individual of any of these nations separately, and the Scriptures say to you concerning him, "Thou shalt love him as thyself." They say the same to every one of your countrymen concerning him and every one of his countrymen. What is this but to say, that the Christian principles of love and forbearance and kindness, strictly as they are to be observed between man and man, are to be observed with precisely the same strictness between nation and nation?

Diametrically repugnant to these principles are all national antipathies; all jealous attempts to check the prosperity of other countries; all endeavours to impede their civilisation and to keep from them the light of knowledge and pure religion, lest eventually they should become less willing to remain under your control; all inducements held forth to encourage them to supply you with slaves, or to engage in any other course of villainy for your real

or supposed advantage; and all passive supineness on your part, by which the ignorance, the wickedness, or any other evil under which they labour, is occasioned or prolonged. How deep is the guilt of governors and legislatures, through the medium of whom a nation acts in its collective capacity; who are the instruments of such crimes, either by actively promoting them, or by failing to exert themselves to the very utmost of their power instantly to suppress them! How deep is the guilt of the subject, who excites the legislature of his country to the commission of them, or discourages and impedes its endeavours for their abolition!

In reducing to practice towards a nation the Christian principles of forbearance and kindness, it will not always be feasible, nor always safe, to proceed to the same extent as in acting towards an individual. The caution requisite in affairs of such magnitude as national concerns; the great uncertainty of the future conduct of the  
other

other nation ; and patriotism, which in its genuine meaning, implying the love of our country restricted within the limits of justice, is in spite of all dispute a Christian virtue, indicate the difference. But to maintain, as at least one writer of eminence has maintained, that the principles themselves are not in strictness of duty to be pursued in the case of public concerns and the conduct of one nation to another, equally as in the case of an individual, so far as national ability and national security will permit, is not more reasonable than it would be to affirm, that scriptural morality is binding in summer, but not in autumn ; in the latitude of Sweden, but not in that of Brasil.

II. Independent nations in civilised parts of the world are likewise bound to the mutual observance of various rules, which derive their force from direct or indirect convention. These rules in consequence form a part of the law of nations. They are distinct from the engagements which particular states contract with each other.

by treaties of alliance, or of commerce; as they are understood to be generally binding upon nations, between whom no specific treaty exists; and many of them are recognised as continuing obligatory during war, when the efficacy of treaties is annulled or suspended. Such rules the nations of Europe have mutually established for their reciprocal advantage, partly by express agreement, partly by a tacit admission of the binding authority of ancient customs. In this respect the European powers may be compared to the individual members of a single state, who have instituted in the just and proper manner, namely by consent, a form of government and laws, to which they engage to render obedience. In one material point, however, not to mention others of inferior moment, the comparison fails; namely, in the want of a common superior, who may enforce obedience to the laws. Among independent nations no such superior can exist. In consequence, the laws of nations are not found to be observed, even when  
they



they are precise and definite, with the same fidelity as the private laws of a state, where punishment is at hand to chastise the transgressor. In common cases they receive from most nations a decent attention, in some measure from motives of conscience, in a greater degree through considerations of *honour*, and through an apprehension that a gross disregard of them would provoke retaliation on the part of other states. Yet as several of the articles are not couched in terms which exclude ambiguity of interpretation; and as it is not always convenient or practicable for several nations to unite in forcible measures for punishing another deemed guilty of an infraction of the code; each nation is too apt, when tempted by the prospect of advantage, to look to its own power, rather than to the equity of the case; to strain the several rules to such a meaning as it finds most desirable; and to insist on its explanation with such a countenance as may overawe all contradiction. The guilt of such con-

duct in the government of a nation, and in the nation itself which permits its governors to hold such conduct, is the same with that of an individual subject of the state, who should make it his business to plunder and defraud his neighbours, whenever he should have a prospect of impunity and success.

Of the points to which that branch of the law of nations now under discussion relates, the following are instances: the rights and immunities of ambassadors; various privileges of neutrality; the sacredness of passports, safe-conducts, flags of truce, and cartel-ships; and sundry particulars in the laws of war respecting capitulations, the treatment of prisoners and of spies, and the prohibition of poisoned and other unwarrantable weapons. To multiply examples is unnecessary. But it is proper to state two general remarks. First, that these conventional laws of nations cease to be binding, if they involve what is in itself radically unjust or immoral. Secondly,

condly, that they give the contracting parties no right whatever over a nation, which has not acceded to the compact.

The latter of these observations may be applied to the conduct of European powers in taking possession of recently discovered countries. The circumstance of discovery, accompanied by the erection of a standard on the shore and other customary formalities, gives to the country, whose navigators have made the discovery and fulfilled the formalities, a right to exclude other European powers from the region in question ; because such is the compact among the powers of Europe. But it gives **not** to the navigators or to their country any right whatever against the natives of the newly-discovered land ; nor any authority to settle therein, in opposition to the will of the natives, unless there be room amply sufficient for both parties. What would be our sensations, if a band of strangers were to disembark from a fleet  
of

of canoes on the coast of Britain; and were to signify to the spectators of their singular dresses and unknown ceremonies, that they were taking possession of the country in the name of the King of Owhyhee, or for the Sachem of California?

REMARKS  
ON  
THE DECISION  
OF THE  
HOUSE OF COMMONS,  
ON APRIL 2, 1792,  
RESPECTING  
*THE ABOLITION*  
OF THE  
SLAVE TRADE.

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THE FIFTH EDITION:  
*WITH AN APPENDIX.*

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TO  
WILLIAM WILBERFORCE, ESQ.

MY DEAR FRIEND,

*YOU will probably be surprised that I should publish any thing, however inconsiderable, on the subject of the Slave Trade, without having previously made you acquainted with my intention; and you will think it particularly unaccountable that you were not informed of my present plan, as many days have not elapsed since we parted. I own that the thought of offering a few remarks to the public occurred to me while I was under your roof. But I was solicitous to be able to say, that these pages have been written altogether without your knowledge; and that without your knowledge they are now inscribed to you. Had you been apprised of their existence antecedently to a printed copy being put into your hands, it is possible that some one might have imagined*  
*that*

#### DEDICATION.

*that their appearance was directly or indirectly owing to yourself; and I might not have been credited, even though I had affirmed, with as much sincerity as I now do, that you are not in the slightest degree responsible for a single sentiment or for a single expression which they contain. Whatever may prove to be your opinion of the following observations, you will believe that my only reason for committing them to the press is a desire to contribute, as far as a private individual like myself can contribute, to promote the great object which you have in view;*

*And that I am always,*

*very affectionately, yours,*

THOMAS GISBORNE.

Yoxall Lodge,  
April 9th, 1792.



## R E M A R K S, &c.

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**W**HEN a subject of great importance is under general discussion, it seems the duty of every man not to shrink from offering his observations upon it to the world, if he conceives that he may chance, in some degree, to counteract a prevailing error by which the judgement of the public is in danger of being misled. On this ground I venture to send abroad the following reflections, suggested by the late decision of the House of Commons respecting the Abolition of the Slave Trade. Having been desirous that, if they were to appear at all, they should appear without loss of time, I have drawn them up in haste; and shall be content if they are founded in truth, and stated with tolerable perspicuity.

The resolution, in which Mr. Wilberforce pressed the House to concur with him, was in substance, "that the Slave Trade ought to be abolished." He avowed, in the most energetic terms, his own conviction that, on every principle, not only of humanity, of justice, and of religion, but of sound policy likewise, the Slave Trade ought to be abolished *instantly*. But he explained that any gentlemen, who, though friendly to the abolition, were not disposed to think that it ought immediately to take place, would not be precluded, by voting for the general resolution proposed, from moving, when a bill conformable to that resolution should be introduced, that the Slave Trade should be tolerated for a limited term.

A motion was afterwards made by Mr. Dundas, that the resolution should be amended by inserting the word "gradually" before the word "abolished." And, after a feeble attempt, on the part of those who were hostile to the original resolution and  
also

also to the amendment, to reject both by moving to adjourn (a proposition which was negatived by a majority of two hundred and thirty-four to eighty-seven), the insertion of the word “ gradually ” was carried, in spite of the most powerful opposition of Mr. Pitt and Mr. Fox, who contended for the immediate abolition with the most convincing arguments, and with that earnest and impressive eloquence which shews itself to come from the heart, by a majority of one hundred and ninety-three to one hundred and twenty-five.

This contest having been determined, it remained to decide between those who were friends to abolition, immediate or gradual, and those who were enemies to both, by taking the sense of the House on the amended resolution ; and a majority of two hundred and thirty to eighty-five resolved, that “ the Slave Trade ought to be “ gradually abolished.”

It appears then, that of the three parties into which the House of Commons was divided on the subject of abolishing the Slave Trade, that which supported immediate abolition was the most numerous; that which patronised gradual abolition the next in point of strength; and consequently that which resisted abolition in every shape the weakest. A comparison of the respective numbers in the several divisions already stated leads to the conclusion, that the first party exceeded one hundred and twenty; the second consisted of somewhat more than one hundred; and the third of about eighty-seven. It is to be observed, that in the second of those divisions, the successful side, amounting to one hundred and ninety-three, contained the united forces of the gradual abolitionists and the anti-abolitionists. For the latter, though averse to the abolition in any form, yet being reduced on that occasion to the alternative of dividing either with the immediate or with the gradual abolitionists,

ists, naturally gave the preference to the latter.

Having thus given a summary account of the various motions submitted to the House, and of the several parties engaged in the struggle; I shall, in the next place, briefly enumerate the principal facts respecting the nature and consequences of the Slave Trade, which were openly maintained by the friends of the abolition, and admitted by nearly three fourths of the members present: and I shall afterwards proceed to the chief object of these pages, an examination of the leading arguments on which those, who preferred gradual to immediate abolition, rested the propriety of their opinion. Collateral remarks will probably suggest themselves during the investigation of the subject.

I. The grounds, on which Mr. WILBERFORCE and his supporters in parliament have uniformly pronounced the abolition of the Slave Trade to be an act of indis-

penfible duty, were allowed to be completely eftablifhed. It was admitted that this deteftable traffic is indebted for its exiftence to wars, in many inftances excited by Europeans, in many, commenced by the natives, for the purpofe of procuring flaves : to the depredations perpetrated by the kings of the country on their own fubjects, fometimes by feizing unfufpecting individuals, fometimes by breaking up and firing villages in the night, and catching the inhabitants as they fly naked from the flames : to the kidnapping of negroes of every tribe, and of all ranks and occupations, moft commonly by the black traders, occasionally by British captains and feamen : to the perversion of penal juftice by the infliction of flavery as the punifhment of almoft every real crime, however trifling ; more frequently as the punifhment of pretended crimes, imputed for the very purpofe of enslaving the party accused, perhaps even his whole family with him. The miferable condition into which Africa is funk, by the prevalence of fuch a fyftem  
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of atrocious enormities, was equally uncontradicted. The almost total annihilation of private security, of mutual confidence, of domestic comfort; the temptations held out to the darkest passions of the human heart, to malevolence and guile, to cruelty, rancour, and revenge; these, and all the other dreadful effects which the Slave Trade has been charged with producing in that devoted land, were allowed not merely to have been delineated with the sober colouring of truth, but to have been ascribed to their proper source. Even the gentleman who moved the adjournment, in order to put an end to all motions for abolition, owned that in his sentiments as to the state of Africa he differed little from Mr. WILBERFORCE. Nor was any one found hardy enough to contend, that it will be possible, while this commerce shall continue, to apply or to devise a remedy for these evils; to raise the Africans in the scale of civilisation; or, by erecting on their shores the standard of the Gospel, to make some compensation for the innu-

merable crimes, which, at our instigation, they have committed.

It was likewise recognised by the same majority of the House, that the Slave Trade, baneful as its consequences are to the continent on which it is carried on, is attended with effects so pernicious to this country, as even, in some respects, to bear a comparison with the former. The annual death of more than one-fifth of the seamen employed in the slave ships, and the subsequent diminution, through diseases contracted and injurious treatment sustained in the Slave Trade, of the remainder of the crews during their voyage to the West Indies, and after their arrival there ; a diminution so great, that, on an average, not more than one half of the original number of sailors is found to return home : these were facts confessed to be proved by evidence in itself incontrovertible, and furnished by the very enemies of the abolition ; and confessed to be in the highest degree alarming to a people trusting in its marine, under Providence,



dence, not for commercial pre-eminence alone, not merely for distinguished rank in the catalogue of nations, but for liberty and independence. Nor did it escape the vigilant eye of the Legislature, attentive to the real interests of that mercantile policy so worthy of being pursued by a maritime power in every channel through which Humanity and Justice lead the way, that by the Slave Trade Great Britain is effectually precluded from establishing an extensive intercourse with the various kingdoms of Africa, for the purpose of obtaining the many valuable productions with which those regions abound: an intercourse capable of being carried on without exposing our seamen to uncommon hardships and mortality, or counteracting the natural tendency of commerce to augment our marine; an intercourse offering to our manufacturers and artisans numberless raw materials of the highest value, and opening a new and continually increasing market for the exports of this country; and, above all, an intercourse in which industry may

count her gains without blushing at the manner in which she has accumulated them, and shuddering to behold them contaminated with blood.

Further; the House of Commons was constrained to yield its reluctant assent to a truth far more grating to the feelings of a British Parliament, far more humiliating to the character of the British Nation, than the obstruction of commercial enterprise, and all the consequent impediments to the sale of our manufactures, to the enlargement of our revenue, and to the increase of our naval strength. It was constrained to admit, with shame and indignation, that the customary effect of the Slave Trade is to produce in the hearts of British captains the extinction not of British generosity, not of common benevolence, but the extinction of almost every feeling which distinguishes the man from the wild beast. By examples, too many to be enumerated, and too shocking to be repeated, the House was constrained to admit that, no savage of  
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America ever displayed more implacable malevolence, more refined and ingenious cruelty, in tormenting his prisoner, than British captains have exhibited in the usage of the wretched slaves whom they have purchased : and that no tyrant of Persia or of Morocco ever treated his subjects with more unrelenting barbarity, more bitter unkindness, than British slave-captains have exercised towards their seamen. I do not mean that every commander of a slave-ship was proved to have shewn himself a monster of inhumanity. Some individuals in that situation, notwithstanding the depraving nature of their employment, and the contagion of surrounding examples, have manifested much attention to their sailors, and much compassion to their slaves. But unfeeling ferocity is, generally speaking, the characteristic of those, who are concerned in the Slave Trade. Exclusive of those horrid instances of cruelty to which I have alluded, it is an established fact, that the usual conduct of the persons who are actively engaged in this traffic, is,

in a singular degree, brutal and atrocious. Neither the inferior officers nor the common seamen can be exempted from this reproach. But the petrifying influence which familiarity with scenes of blood, and rapine exerts upon the heart, is particularly visible in those who have the principal share in directing them; and who, possessing uncontrolled authority in their respective ships, add fuel to every savage passion by unlimited indulgence.

The same majority of the House was strongly impressed with the conviction, that the existence of the Slave Trade is the radical cause of insurrections in our colonies. That the continued importation of Africans is the source from which revolts of the plantation-negroes originate, is a fact which has long been maintained with unanswerable arguments by the advocates for abolition. And this conclusion was maintained before the House of Commons in the late debate, not merely by the friends of immediate abolition,

tion, but by Mr. DUNDAS himself. No language could be more decided, than that which was held by him on this subject. In addition to the irrefragable train of general reasoning, by which other members had already evinced the dangers to be dreaded, as long as the slaves in our islands are exposed to be kindled into revolt by the arrival of their countrymen recently enslaved, and burning with indignation and revenge; he referred, as other speakers had done before him, to the memorable declarations of Mr. LONG, in his History of Jamaica. On this topic, the authority of that historian is altogether unquestionable; not only because he had the fullest opportunities of acquiring local information respecting the causes of insurrections among the negroes; not only because he professedly applied himself to gain all possible intelligence on the subject; but because his avowed enmity to the suppression of the Slave Trade exempts him from the suspicion of being led by prejudice, or by any other motive than the strong impulse

pulse of duty, and the irresistible force of truth, to deliver a testimony, which, were every other argument set aside, would itself be sufficient to convince all impartial men, that this traffic ought instantly to be abolished. Among many other observations, which clearly demonstrate that it is in vain to expect that the islands can enjoy permanent security while the Slave Trade is allowed to subsist, Mr. LONG expressly asserts, as the result of his own experience, as the general conclusion to which he was led by accurate and repeated inquiries instituted for the purpose of ascertaining the origin of colonial insurrections, that those insurrections take their rise from the imported Africans, not from the Creole negroes. He further makes it evident, in another passage, that the rigorous treatment and the legal severities which the planters deem necessary to be universally exercised towards their slaves, for the purpose of coercing those who, having been lately brought from the Coast of Guinea, shew themselves full of turbulence in their dispositions,

positions, and unwilling to labour for masters whom they consider as their oppressors, are such as to preclude the great mass of plantation-negroes from obtaining that pittance of ease and comfort, which, it is allowed, they might otherwise be safely permitted to possess. On these plain grounds, furnished by the writer whom the enemies of the abolition have been accustomed to bring forward as the highest authority in all points affecting the interests of the West Indies, and whose reasoning, even when fatal to their own side of the question, they find it impossible to dispute, it was incontrovertibly proved to the House, that the only safeguard against the most horrible calamity, which the colonies have to dread, is to be sought in the abolition of the Slave Trade: and that no island is secure from ruin, no colonial property safe for a moment, while the entire accomplishment of that measure is delayed. For what but the total abolition can put a stop to the introduction of those Africans, who, smarting under recent injuries, are continually

continually meditating schemes of revenge ; or render it practicable for the planters so to meliorate the condition of their negroes, as to inspire them with sentiments of content and satisfaction, and convince them that they have an interest in the tranquillity of the islands in which they dwell ? I have suffered myself to dilate on this branch of my subject somewhat more than I intended : and I have dilated upon it without reluctance. For I feel no common pleasure in the consciousness that all those calumnies, which the enemies of the abolition had heaped upon its friends, all those imputations which had been urged by the former against the latter, branding them as having caused already, or as being likely to cause hereafter, confusion, disturbances, and revolts, in the West Indies, were publicly and effectually done away : and not only that these calumnies and imputations were done away, but that they recoiled on those with whom they had originated : and that the very measure which has been represented, with such dishonourable industry,



dustry, as portending speedy and complete destruction to our colonies, is evinced to be that measure which alone can ensure them from being, sooner or later, convulsed by insurrections, laid waste by conflagrations, and deluged with blood.

It appears then, from the preceding statement, that the Slave Trade was generally admitted by that part of the House of Commons which supported the abolition, to derive its supplies from treachery and rapine; to have plunged and to detain the continent of Africa in misery, barbarism, and idolatry; to be the grave of our seamen; to obstruct a very beneficial and honourable extension of our commerce; to harden the hearts and brutalise the dispositions, in a degree scarcely to be described, of by far the greater proportion of Englishmen employed in it; and to be the radical cause of West Indian insurrections, and the grand obstacle to the improvement of the condition of the negroes now in our islands. On all these grounds, not  
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to notice other incidental arguments which pointed to the same conclusion, the Slave Trade was thus recognised by nearly three-fourths of the House to be inhuman, unjust, and impolitic.

Were a stranger to hear a simple recital of these concessions, he would without hesitation pronounce that the House, whether it were actuated by motives of conscience or of interest, unquestionably passed a vote before it rose, abolishing the Slave Trade from that moment.

Every man who feels for the honour of the House, for the interests of this country, for the welfare of Africa, and for the cause of humanity, of justice, of morality, and of religion, cannot but deplore from his heart that such a determination was not adopted.

There proved, however, to be a considerable number of the members, and in that number were found two persons not  
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less distinguished for their abilities than respectable from their stations, who, without hesitating to admit the inherent criminality and the impolicy of the Slave Trade, were yet of opinion that it ought to be abolished, not immediately, but in some gradual manner: and being joined, for reasons which I have already stated, by those who were hostile to abolition in every shape, unfortunately obtained the sanction of the House to a resolution conformable to their sentiments.

II. It remains for me to specify and to examine the principal arguments urged by those, who spoke on that side of the question.

Those arguments may be reduced to two; one purporting to manifest the impracticability, the other to evince the injustice, of immediate abolition.

In the first place it was affirmed, that the adoption of measures professedly aim-

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ing at nothing further than gradual abolition, was not only the most prudent, but the only effectual method of attaining the object so generally desired, the final suppression of the Trade. For the cordial assistance and co-operation, it was said, of the colonial legislatures, is indispensably requisite to ensure the success of any British acts of Parliament respecting the abolition: and the concurrence of the islands can in no degree whatever be expected, much less their active and hearty exertions, if their prejudices are shocked in the outset by our peremptorily resolving on a total and immediate abolition.

In the next place it was alleged that, however strongly justice might demand the extinction of this traffic, (and that justice did require it, they who adduced this argument unequivocally admitted,) yet opposite considerations of justice demanded, that for some definite time it should be suffered to continue. For the planters, it was represented, had embarked their fortunes

tunes in the cultivation of the islands, under the approbation and encouragement of the legislature of the mother-country; and with a full expectation that they should enjoy, without interruption, the right which they have ever possessed, a right essential in their opinion to the improvement and preservation of their property, that of recruiting and augmenting their gangs by the purchase of negroes from the coast of Africa. And from these premises it was inferred, that the immediate abolition of the Slave Trade would be an act of direct injustice.

On the first of these arguments I shall probably not find it necessary to offer many remarks. The assertion on which it entirely rests, that it will not be in the power of the British Parliament to ensure the execution of an act, should it pass an act, for the Immediate Abolition of the Slave Trade without the approbation and effective aid of the colonial assemblies, was scarcely attempted to be in any respect

substantiated by those who made it; and was controverted and completely overthrown by the Chancellor of the Exchequer. The only way in which any effort had been made in the course of the debate, by the friends of gradual abolition, to establish the truth of the assertion which we are considering, was by an indirect intimation, that it would be impracticable for the Parliament to prevent the planters from introducing slaves in a clandestine manner into our islands from foreign vessels, and foreign ports in the West Indies; and that the colonists would undoubtedly resort to those methods of obtaining African negroes, were they to be irritated by a sudden Abolition of the Slave Trade.

I shall not, on this occasion, enter into the discussion, whether the planters in general, if the Slave Trade were immediately suppressed, would find themselves in want of recruits for their gangs. That in the common course of things they would not feel any such want, unless, contrary to the  
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most evident principles of interest, they should bring it upon themselves by some extravagant and unaccountable misconduct of their own, is a point, which, in my judgement, has been thoroughly proved. Nor shall I inquire into the probability of their endeavouring to supply their deficiencies, and even to enlarge their original numbers, by smuggling. I shall admit, for the sake of argument, that they would wish to do both. But with regard to the practicability of thus introducing African negroes in the face of a British act of Parliament, and in opposition to the will of this country, I confess that the reasoning of Mr. PITT, corroborated as it was by a reference to such regulations as Great Britain has an undoubted right to establish in the West Indies, has impressed my mind with a decided conviction, that such attempts on the part of the colonists would be altogether ineffectual. I do not mean to affirm, nor did Mr. PITT contend, that it might not be possible now and then to evade the most rigid law, however vigi-

lantly executed ; and by stealth to gratify, in a few detached instances, that hankering after negroes iniquitously stolen and cruelly forced from their native land, which long and unbridled indulgence has naturally produced. But if Great Britain shews herself resolved, on the one hand, to put an entire stop to the gratification of that inhuman appetite ; and, on the other, feels conscious that she is possessed, according to the terms of the connexion subsisting between herself and the West Indies, of a right to prescribe whatever laws she thinks fit to their commerce, and to enforce, by the appointment of proper officers in their ports, complete obedience to her will ; how is it possible that her will can be resisted ? If Great Britain finds herself able, and no one will deny that she has found herself able, effectually to prevent the introduction of foreign manufactures into the colonies ; can it be impossible, can it be difficult, for her to prevent the introduction of slaves ? If she can successfully prohibit with a word the introduction of a bale of cloth,

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of a chest of tea, of a bag of nails; can she fail of success when she prohibits the importation of a negro? If she proved herself able completely, and without an effort, to annihilate the introduction of American lumber into the islands, reluctant as the planters were to relinquish that mode of obtaining what they considered as it were a necessary of life; are there not additional reasons, which render it far more easy for her to annihilate at once the introduction of slaves from Africa, however adverse the colonists may be to an act of parliament for that purpose? For a negro, I believe I may now venture to affirm it on the confession of slave-captains and slave-dealers, is a human creature. He has some powers of understanding: he has organs of articulation: he has a language not altogether unintelligible to European ears, which have been accustomed to it. He is not, like a piece of lumber, unable to give any account how he came into the island. He is not, like a piece of lumber, cut to pieces, and worked up into some

other shape. Mangled though he may be, he preserves some traces of the human form. His purchaser is desirous that he should live, at least for some time. He is capable of telling his story: and though the colour of his skin may very fitly prevent any white man from believing him, he is capable of being identified; he is capable of being put to the test, by a reference to public registers, and other documents, by which the slaves possessed previously to the Abolition, together with Creole slaves born after it, may be precisely ascertained. He is capable of being questioned by public officers, who may be appointed regularly to inspect the plantations, and examine the negroes. He is capable of being declared free, if he is found to have been fraudulently procured: and his owner is capable of being punished for having fraudulently procured him.

To what I have said on this branch of the subject I will only add, that the plan by which Mr. DUNDAS proposed to accomplish

comply with the gradual suppression of the Slave Trade, the great outlines of which he traced in his speech, appeared to be clogged with extreme difficulties, which were very ably pointed out by Mr. Fox. And one of its leading features, the emancipation of all the children of the negroes after they shall have attained a certain age, was surely of such a nature as to shock the prejudices, and alarm the self-interested feelings of the planters, even far more than the immediate Abolition of the Slave Trade. I have, in truth, no conception that any thing, which can fairly be termed the abolition of this detestable traffic, will ever be effected by any plan, the success of which is to depend on the co-operation of the colonial legislatures. For, whatever regulations those assemblies might think it prudent to sanction by their statutes, for the purpose of weathering the present storm, and giving time for the spirit of humanity and justice, now at work in Great Britain, to evaporate; with what shadow of reason can we hope that they would

would cordially superintend the execution of them, and zealously exert themselves for the attainment of the benefits proposed: knowing, as they would from the first, that the reward of their zeal, the result of the attainment of those benefits, was avowedly to be the Abolition of the Slave Trade; a measure which, whether immediate or gradual, they denounce as inevitably ruinous to the West Indies, and resist with such bigotted and acrimonious perseverance? Encouraged by having once obtained from the British Legislature a licence for this bloody traffic for a specified term, they would silently wait, neither openly counteracting, nor yet carrying into actual effect, the internal regulations which they had been constrained to enact, but could not be compelled to execute; and purposing, when the term should be nearly expired, to apply again and again to Parliament for prolongations of it. They would be conscious, that at any future time they should be able to make out at least as plausible a case as at present; perhaps, by  
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availing themselves of contingencies, one somewhat more plausible. And they would trust, that by seizing the moments when the situation of public affairs may render the political assistance of the planters of more than common value to the minister of the day, they might obtain repeated extensions of their period of rapine; though it would have been in vain to hope, that, if once an act had passed for immediate Abolition, its repeal could have been extorted. And thus, by always holding out the prospect of a speedy termination of the trade, they might lull the people of England into supineness, and continue to purchase the wretched Africans for ever.

Let us now consider the other argument adduced by the friends of gradual Abolition.

This argument, as the reader may recollect, was in substance, that justice, although it is confessedly violated by the continuance  
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of the Slave Trade, would likewise be violated by the immediate suppression of it; since the faith which Parliament, it was said, has pledged to the colonists, would, in that case, be broken.

Mr. DUNDAS, in the course of his speech, certainly alleged what approached very nearly to this reasoning; perhaps what entirely amounted to it. But there was another gentleman, who stated it, to my ears at least, in plainer and more pointed language: who, after adopting the emphatical expression of a member who had spoken before, that "The Slave Trade" is not a trade, but a crime;" and after recognising, on the one hand, the claims of justice for its abolition, refused to concur in immediately satisfying them, because, in his opinion, there were "Opposing" claims of justice on the other."

In this age of liberal discussion we may examine with unreserved freedom an argument delivered in a public assembly, with-

out being suspected of failing in personal respect towards those who adduced it. Let us then consider what this argument implies.

It implies a direct and palpable contradiction. It implies an impossibility no less extravagant (if impossibilities may admit of comparison) than for the same identical form to be at once round and square; for the same particle of water to be at once in a state of thawing and of congelation. It is saying that justice may be unjust: that an act of absolute duty may be a flagrant crime. For what is it that the argument affirms? Not that justice will hereafter, and under certain future contingencies, demand the Abolition of the Slave Trade; but that it does now and under present circumstances demand it. And what does the argument deny? It denies that it can be just to abolish the trade until some years shall have elapsed, and certain changes shall have taken place in the situation of the planters.

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How then are we to rectify these glaring inconsistencies, these jarring and irreconcilable conclusions? By taking up the matter a little higher, and attaining clear ideas of the true nature of justice, and of its bearings on the question before us. Without encumbering ourselves with the formalities of logical definitions, we may state justice to consist in refraining from invading the rights of others. Justice then, it is said, demands the Abolition of the Slave Trade; because it prohibits the invasion of the rights of the Africans, by which invasion alone the Slave Trade subsists. This position is granted by all the friends of Abolition, whether immediate or gradual. And justice, adds the one party, since it prohibits such invasion universally and at all times, requires the immediate Abolition. Take a larger view of the subject, replies the other: does not justice prohibit the invasion of the rights of the West-Indians? Unquestionably. And is not the faith of Parliament pledged that no great change of system, from which  
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their property may receive an essential injury, shall be enforced on them? And consequently does not justice, conclude the supporters of gradual Abolition, require that property to be secured from material detriment by a limited permission of the Slave Trade?

Such is the detailed state of the question.

Now I conceive, that no gradual abolitionist, nor even any the most prejudiced planter, whatever language he might hold when talking inaccurately of the pledged faith of Parliament, would contend, when pressed closely on the subject, that the Legislature has bound itself for ever to support the Slave Trade for the purpose of securing West-Indian property. He would undoubtedly explain his meaning to be this: that the Legislature stands engaged, either to let the Slave Trade continue, or to give a full compensation for any detriment incurred by its Abolition.

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For the present I will suppose, what I by no means intend permanently to concede, that a pledge, thus explained, has been given to the planters by the British Parliament.

How then are the claims of justice on behalf of the planter to be satisfied? By violating her claims on behalf of the African? That is impossible. Justice cannot at once give to the African a right to be free, and to the slave-captain, or his emissary, a right to enslave him. The claims of Justice (it is an important truth, and let us remember it) cannot oppose each other. Every claim which the fictions attaches to some appropriate object. The claim which she gives to the West-Indian is not on the African, who is free; but on the Parliament of Great Britain, which, according to our present supposition, is bound. The planter has no plea to invade the liberty of the one, fully as he may be entitled to exact payment from the other. The African has incurred no debt.

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He was no party to the contract. He has not put himself into the hands of the British Legislature. He has not engaged to ratify its bargains with its colonists. He has not pledged himself to surrender at the beck of a Guinea captain ; to abandon his country, his friends, and his kindred ; to pine in fetters and misery in the hold of a slave-ship ; to be trucked and bartered for money ; to expend his strength for strangers ; to bleed at the will of a master ; to groan under the whip of a merciless driver ; to endure the taunts, the ignominy, and the oppression, which fall to the lot of hopeless captivity ; and to deliver all his posterity into bondage for ever. Let those discharge debts, who contract them. England, it may be, had rather pay her creditors with African blood than with her own gold. And this her Senators tell her is justice.

But I must now recall that concession which, for the purpose of giving every advantage to the argument which I have been

combating, I have hitherto made. I deny altogether that the West-Indian planters (with the exception of some proprietors of lands in the Ceded Islands, whose case rests on grounds peculiar to itself, and not undeserving of further inquiry) will have any just claim to compensation from this country, if the Slave Trade shall be instantly abolished. For several reasons, two only of which it is necessary to mention, I deny that they will have any such claim. In the first place, I think it apparent, from the evidence laid before the House of Commons, that the number of births among the negroes is now greater than that of the deaths; and that the immediate Abolition would contribute, in various ways therein specified, to the general benefit of the proprietors of the islands. And, in the next place, it was completely established in the late debate by the Chancellor of the Exchequer, after he had described the important advantages which would accrue to the West-Indies from the immediate Abolition, that no pledge whatever has at any time  
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been given by the British Parliament, either that the Slave Trade should not be suppressed, or that the losses incurred in consequence of its suppression, had any losses been likely to take place, should be made good by the public. I will not injure his arguments, which were not only founded on general reasoning, but confirmed by a reference to particular statutes, by attempting a detail of them. I trust that they will be laid before the world with sufficient correctness in some of the promised Reports of the Debate; and shall content myself with adding, that to my mind they were perfectly conclusive.

I should hope that no person who had an opportunity of hearing the reasoning of Mr. PITT on the subject of compensation, can still have a doubt remaining as to the groundlessness of all claims on the public (except, perhaps, with regard to the Ceded Islands) which planters may bring forward. But I will not allow myself to apprehend, that any individual whatever, who shall

seriously put the matter home to his conscience, can fail of convincing himself that the claims of the West Indians to compensation, had they been founded in truth and justice, could not have vindicated the continuance of the Slave Trade for a moment.

I would now therefore address myself to all who have hitherto been disposed to gradual rather than to immediate Abolition: and, were it not that it might be construed into an appearance of presumption, I would particularly request the candid attention of those members of the House of Commons, if any such should honour these pages with a perusal, who on the late discussion gave their suffrages for the former measure in opposition to the latter. Thinking, as unquestionably I do, that the continuance of the Slave Trade for another hour can be justified on no ground of policy or of reason; thinking that its continuance is a direct violation of the principles of justice and of the most sacred obligations

obligations of Christianity ; I am ready to give to all who voted for a limited prolongation of its existence full credit for the purity of the motives, by which they were actuated. And with respect to that gentleman, to whose expressions I have had occasion more particularly to allude, when endeavouring to refute the argument, that “ opposing claims of justice” forbade the immediate Abolition ; I feel it my duty to declare, little as he can be concerned as to the opinion entertained of him by a stranger, that I have ever been accustomed to regard his character with respect and admiration ; and that I still regard it with respect and admiration, deeply as I lament that the measure which he supported should have received, even for a single instant, the countenance of such talents and of such virtues.

Let me then not be understood as seeking to represent the parliamentary friends of gradual Abolition as having favoured that plan on any other grounds than the two general arguments, which I have stated.

I should be most unwilling to suppose that they were of that description of men, who caring little, and knowing less, respecting momentous questions on which they are called to decide, are always ready to adopt some half-measure, something intermediate between right and wrong, and applaud themselves for being persons of moderation. I should be most unwilling to suppose that they had been led by confused expectations of some national benefit to be attained by the Slave Trade, of some public or private evils to be dreaded from the subversion of a long established system, (delusive as all such expectations, visionary as all such fears would have been,) to make a compromise between God and mammon (*k*); and  
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(*k*) I cannot refrain from making a few short remarks in this place, although they are not required by my present line of argument, on the blind ignorance, not to say the bold impiety, of those, who have presumed to assert, that the Scriptures sanction the Slave Trade. That the Scriptures permit the existence, under certain circumstances, of the state of slavery; and that the Supreme Being promulgated laws to the Jews, respecting the proper mode of treating those, who, for their crimes, by their own consent,



after confessing what is due to the former; resolve to postpone the discharge of the obligation till it should suit the convenience of the latter. I admit them to have pur-

sent, or for debt, had been brought into it, I readily allow. But if any man will yet dare to affirm that, in plain contradiction to the acknowledged attributes of the Deity, any sanction is given in the Old Testament to those who reduce men to slavery by force or by fraud, let him blush when he reads the following lines: "He that stealeth a man and selleth him, or if he be found in his hand, he shall surely be put to death." Exod. xxi. 16. I hope ere long to see a British Act of Parliament enact the same penalty for the same crime; and not forget what those persons deserve, who, either in Africa or the West Indies, shall buy men who have been stolen. Again, "If a man be found stealing any of his brethren of the children of Israel, and maketh merchandise of him, or selleth him, then that thief shall die; and thou shalt put away evil from among you." Deut. xxiv. 7. This latter passage only relates to the stealing or selling of a Jew, by a brother Jew. But Christ, we know, has commanded us to consider and treat all mankind as our brethren.

If any one should ask what particular light the New Testament throws on the Slave Trade, in addition to the conclusions to be drawn from its general precepts; he may consult the ninth and tenth verses of the first chapter of the first Epistle to Timothy, and observe the description of persons, with whom "man-stealers" are classed by St. Paul.

sued a course which they believed at the time to have been the line of duty: and I admit that they pursued for one or both of the reasons already mentioned, namely, that proceeding in the way of gradual Abolition would be the most practicable, perhaps the only practicable, method of extinguishing the Slave Trade; and that considerations of justice due to the West Indians render it morally wrong to abolish it at once. But if on reflection they discover both these reasons to be erroneous: if they become convinced that the immediate Abolition of the trade is the only sure method of abolishing it at all; and is the only measure which justice and religion permit conscientious men to adopt: if they feel themselves bound in duty to God and man to quit a dangerous and polluted path, which, on entering it, they conceived would lead to the dwelling of mercy, of equity, and of happiness; but which they now behold pointing at once to fraud and rapine, to anguish and murder, to every thing that is atrociously and incurably iniquitous;

quitos; they have the comfort of reflecting, that it is not yet too late to recede. They have the comfort to reflect that the rights, which the wisdom of our constitution confers on members of the House of Commons, ensure to each individual, who possesses a seat among the representatives of the people, an opportunity of re-considering his conduct and the grounds of it; of rectifying his misconceptions; and even if he finds that he has inadvertently been led into fundamental errors, either with respect to supporting or to resisting any measure proposed, of throwing the weight of his suffrage and of his exertions into that scale, which he now perceives to be stamped with the characters of justice. Great is the praise which belongs to men, who, acting under the impulse of upright intentions, are fortunate enough to embrace at first the proper course. Yet greater praise is due to those, who, influenced by motives equally pure, but unconsciously mistaking the direction in which they ought to have proceeded, have the understanding to discern,  
and

and the magnanimity to correct their error : and triumphing over the artifices of the self-interested, who are solicitous to detain them in it, and strive to alarm them by the prospect of the tremendous charge of inconsistency, do not hesitate to avow, that the consistency at which a good man ought to aim, is the being consistent in always doing what he believes to be his duty ; and that having endeavoured to keep their minds still open to argument and conviction, they have discovered that they were less wise yesterday than they are today.

If ever there was an occasion, when those, who have given a vote, on which they reflect with concern, are particularly called upon by every moral consideration to prevent by a timely and effectual remedy the consequences to be dreaded, it is the present. Let them place before their eyes the enormity of the evil in question. Let them consider (I speak on a supposition which I am unwilling to think possible, that the House of Lords too should be of  
opinion,

opinion, that the laws of God may be suspended by an act of Parliament, and that some duration, however limited, should be granted to the Slave Trade) how many thousands and tens of thousands of their fellow-creatures, from whom they have received no injury, who have committed no crime, they will have contributed to plunge into a complication of the greatest of human calamities. Let them also reflect on the additional multitudes, which, from past experience, we may expect to be wounded, slaughtered, or rendered miserable for life, in those scenes of war, treachery, and outrage, by means of which our slave-ships are to be filled. During the continuation of the term, should a term be granted, the eagerness of the planters to buy slaves, and the consequent increase of price, together with the apprehension of a speedy period being put to their execrable traffic, will stimulate the brutal avarice of the slave-takers to tenfold exertions, and increase in an equal proportion the devastation and miseries of Africa. “ Wo to the  
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“inhabitants of the earth ; for the Devil is  
“come down unto you, having great  
“wrath, *because he knoweth that he hath but*  
“*a short time.*” Well-may these words of  
holy writ be applied to that devoted land !  
But supposing the term to be extremely  
short, to be one or two years ; supposing too  
that it would be possible to limit the number  
of wretched beings to be seized in Africa,  
and exported to the West Indies ; suppos-  
ing that only ten thousand more of our  
fellow-creatures were to be received on  
board our slave-ships ; I earnestly beg every  
member of the Legislature to pause for a  
moment, and before he gives his assent to  
a Bill for that purpose, to make the case of  
one of those ten thousand Negroes, whose  
liberty and happiness he is called upon to  
vote away in cold blood, fairly and impar-  
tially his own. Let him do as he would  
be done by. Let him collect together all  
the reasons for assenting to that Bill which  
others have produced, and add to them all  
which his own ingenuity can suggest. Let  
him ask himself, and let him answer him-  
self

self truly, for much is at stake, whether, if he were that Negro, he should think those reasons justified his being enslaved. Let him ask himself, whether they would justify the enslaving of that Negro, if pleaded before an unprejudiced and disinterested court of justice. Let him ask himself whether they will justify it at that tribunal, before which he and that Negro will shortly stand face to face.

What may we not expect from the virtue of individuals, when so generous and laudable an ardour pervades the people at large? It is indeed an ardour, which does not disgrace the cause in which it is displayed. Whatever feeble efforts may have been made to cast reflections on a few of the Petitions presented to Parliament; it is impossible for any reasonable man to deny, that the inhabitants of Great Britain, while they have performed the duty which they owe to the Constitution by applying to the House of Commons in that temperate and respectful manner, in which every  
branch

branch of the Legislature ought to be addressed; have manifested their detestation of the Slave Trade with a nearer approach to unanimity, with more decided conviction, and, I may add, with more knowledge of the subject in question, than was ever experienced before. It is an ardour which I trust will never subside, until this traffic is utterly extinguished. While the serpent has life there is danger. It may appear to have received a fatal wound; but if it be not speedily crushed to pieces, it may prolong year after year its baneful existence, and at length revive in all its wonted horrors. No circumstance is so likely to prevent the Slave Trade from being abolished, as for the country to imagine that it is in fact abolished already. If opposed with active and persevering exertions, it will be annihilated: if despised and neglected, it will secretly resume its strength. Imitating the example already given in Parliament by Mr. WILBERFORCE and his associates, I trust the people of Great Britain will wash their hands from  
from



from having any concern in bringing in a Bill for *gradual* Abolition. I trust that, beholding with abhorrence a Bill giving a *licence* for the practice of treachery, and for the commission of murder, for the diffusion of the greatest miseries, and for the perpetration of the blackest crimes, they will refuse to partake in the guilt: and will not be beguiled, by the passing of such a Bill, to enter into any truce or parley with iniquity. I trust that, without delay or intermission, they will adopt every lawful method, public or private, for cutting short the term of rapine and devastation in its course; and never lay down their constitutional arms, until the enemy be completely destroyed.



## A P P E N D I X.

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THE foregoing Tract was written and published immediately after the House of Commons had resolved, on the second of April 1792, that the Slave Trade ought to be *gradually* abolished; and before the House had proceeded to deliberate concerning the precise period during which the traffic was to be *licensed*.

The importance of the general subject, as referring to every principle which ought to influence the hearts and the consciences of men, and the distinct consideration which it has received in the Treatise concerning the Principles of Moral Philosophy (*l*), seem to evince that it is not improper to join the "Remarks" and that

(*l*) Chapter 12th.

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Treatise

Treatise in one volume. The same reasons appear further to require a brief statement of the subsequent proceedings of the British Parliament respecting the Abolition of the Slave Trade.

Shortly after the Easter Recess, the House of Commons resumed its deliberations concerning the Abolition; and the contest between the friends of immediate and of gradual Abolition instantly recommenced. The object of the former was to reduce the time to be granted for the continuance of the Slave Trade (for unhappily they had proved unable to prevent some time from being allowed) within the narrowest limits possible. The latter differed much among themselves in opinion respecting the length of the term to be fixed. On the twenty-fifth of April 1792, Mr. Dundas moved a resolution, limiting the continuance of the Slave Trade to the first day of January 1800. An amendment was moved by Lord Mornington, that the year "1793" should be substituted in the place

place of the year "1800." After a long debate this amendment was rejected by a majority of one hundred and fifty-eight to one hundred and nine. The House then adjourned.

On the twenty-eighth of the same month Mr. Dundas again proposed his former resolution; and Lord Mornington moved to substitute the year "1795" in the place of the year 1800." This amendment also was rejected after much discussion, though by a smaller majority than the former; the numbers, on a division, being, for the amendment, one hundred and twenty-one; against it, one hundred and sixty-one.

Sir Edward Knatchbull then moved that the year "1796" should be substituted in the place of the year "1800." This amendment proved successful; the numbers, on a division, being, for it, one hundred and fifty-one, against it, one hundred and thirty-two.

Shortly afterwards the House of Commons communicated to the House of Peers the resolution, which it had passed respecting the Abolition of the Slave Trade on the first of January 1796; and desired the concurrence of the Upper House in that resolution.

The House of Lords being of opinion, that it would not be proper to rest their final determination on the evidence which had been given before the Privy Council, and before a Committee of the House of Commons; several of the Lords proposed, for the purpose of expediting the business, that the witnesses to be examined by the House should not be examined at the Bar, but before an open Committee up stairs. The motion was unsuccessful. And in a subsequent year it was renewed with no better fate.

From that time to the present the matter has rested with the House of Lords. During two or three subsequent sessions  
some

some few days, or, to speak more properly, parts of some few days, were employed in hearing evidence. At length the hearing of evidence was entirely discontinued.

This tardiness in point of progress seems to have been equally repugnant to the wishes and to the expectations of the friends of the immediate Abolition of the Slave Trade, and even of the generality of those who preferred a gradual Abolition; and excited on various occasions no small degree of public animadversion. That it has knowingly arisen from improper motives I do not mean to affirm. May every person who has contributed to it be able to justify his motives at that day, when the secrets of all hearts shall be revealed!

When the question of the Abolition of the Slave Trade was under discussion in the House of Commons, those members who contended for its continuance, whether for a longer or for a shorter period, rested their principal arguments on the

wants of our Colonies; and almost universally reprobated that part, and it was no inconsiderable part, of the trade in Slaves carried on by Great Britain, which had for its object the supply of foreign colonies, as highly detrimental in point of policy to the interests of this country. In consequence therefore of the slowness of the proceedings of the House of Lords on the general subject, a Bill for the immediate Abolition of that branch of the Slave Trade, which consisted in supplying foreign nations, was sent up in the year 1794 from the Commons to the Lords. But in the House of Lords it was unsuccessful.

Within the last two or three years motions for leave to bring in a Bill for the Abolition of the Slave Trade have been repeatedly made in the House of Commons without success. In the present session a motion to that effect was rejected by a majority of four.

Such



Such has been the progress, and such is the present state, of a question, which to a reflecting mind, that contemplates the multitude of unhappy beings whose dearest interests are involved in the decision, will perhaps appear the most important that was ever submitted to a human tribunal. Six complete years have now elapsed since the energetic eloquence of Mr. PITT “congratulated the House of Commons(*m*), “his Country, and the World, that the “SLAVE TRADE had received its condemnation; that its sentence was sealed; “that this curse of mankind was seen in “its true light; that the greatest stigma on “our national character which ever yet “existed was about to be removed; and “that mankind in general were likely to “be delivered from the greatest practical “evil that has ever afflicted the human “race, from the severest and most extensive calamity recorded in the history “of the world.” Language worthy of the

(*m*) See Mr. Pitt’s Speech in the debate, April 2d, 1792.

speaker, and of the subject; too bold only in expressing an expectation, which, to the shame of Great Britain, and the calamity of mankind, has not been realised! Yet in the debate in which these manly sentiments of exultation were uttered, and in the various debates which ensued on the same subject, the Slave Trade was reprobated in the most unqualified terms, not only by those who called for the immediate suppression of it, but by those also who favoured its continuance for a limited period. Even they, who could contend against affixing any term whatever to its duration, were heard almost to a man to lament its existence, and to acknowledge the dreadful evils which it produced.

The first of January 1796 has long been past; and the Slave Trade rages as before! When a system of iniquity has now lain open to the public eye for six additional years; is the hope that we shall ere long cease to cling to it with undiminished pertinacity a hope too flattering to be indulged? Have these years added no convert  
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to the number of those, who, estimating political questions on immutable principles of duty, have pronounced that judgement on the Slave Trade which morality and religion demand? Have they wrought no effect on those, if such there be, who proceed on a principle deemed perhaps more commodious than unbending rectitude, that of trimming the balance between villainy and profit? Have they not convinced some, that the idea of a sacrifice of national interest being involved in the immediate Abolition of the Slave Trade, is diametrically repugnant to fact and truth? Have they not at least convinced a still larger number, that the supposed sacrifice is such as requires no extraordinary degree of conscientiousness to perform, no extraordinary degree of fortitude to encounter?

In some respects the intervention of such a period can scarcely have failed to produce happy consequences. The influence of error, of prejudice, and of misrepresentation with respect to several particulars, must

must have declined. Neither ignorance nor artifice, I presume, will now be heard to confound the Abolition of the Slave Trade with the Emancipation of the Slaves; nor could confound them, without reading in the countenances of the audience the inward sensations which the blunder or the calumny had excited. They who may be of opinion, that the proprietors of the Ceded Islands, or other planters, would have a just claim on this country for compensation, if the Slave Trade should be abolished, must at length have learned to discern that the injustice of the Slave Trade, and the justice of compensation, are questions perfectly distinct in their nature; questions resting on grounds wholly unconnected; questions to be tried separately, each on its own evidence, and its own merits. Even they who, discovering that, as surely might be expected, in the vast crowd of abolitionists, some persons of democratical sentiments were to be found, stigmatized all the friends of the Abolition as patrons of anarchy, and profelytes of Jacobinism,

Jacobinism, may perhaps be ashamed of their outcry; when they still see, what they have often seen already, those men who have done themselves the most honor by zealous opposition to anarchy and Jacobinism, distinguishing themselves no less honourably by unremitting hostility to the Slave Trade,

Every one who feels towards his country that best sentiment, I had almost said that only genuine sentiment, of patriotism, an earnest desire that her whole conduct should be governed solely by the principles of Christian duty, must anxiously wish that on every occasion the native force of those principles should prove decisive, independently of any collateral strength which they may derive from the circumstances of the day, and of any aid which they may draw from the co-operation of interest. There are occasions, however, on which they may acquire an accession of weight from each of those sources. Such is the case of the existing moment.

moment. What is the aspect under which Great Britain now presents herself to the world? It is that of a nation armed to vindicate her rights from aggression; and not merely to vindicate her rights from aggression, but avowedly for the purpose of upholding those fundamental principles of morality and religion, on which the happiness and the very subsistence of civil society depend. Are not these, circumstances which peculiarly call upon her to set an example herself of reverencing the rights of others, of obeying the fundamental principles of morality and religion; to terminate the career of her injustice towards Africa; and no longer to swell with new streams that deluge of guiltless blood, which crieth against her for vengeance from the earth? If the support of interest can add any thing to such considerations, that support stands ready to be afforded. I do not now speak of the injury to our general commerce, the destruction of our seamen, and the great consequent prejudice to our national revenue, power, and

and security, which result from the Slave Trade. I refer to the internal situation of the West Indian colonies. Since the Resolution of the House of Commons, in 1792, though Justice has slumbered, Havoc has not paused. The exertions of Rapine and Treachery have been redoubled on the Coast of Africa; and the importation of Slaves into our Islands has been most enormous. Now, in the former debate, it was unanswerably proved by Mr. PITT; it was most strongly impressed on the House by Mr. DUNDAS, to whose authority on the subject in question the opposers of immediate Abolition may be less disposed to object; it was established, on the clearest declarations of Mr. LONG, the Historian of Jamaica, and the friend of the Slave Trade; that the importation of new Slaves is the grand source of insurrections among the Negroes, and exposes the Islands to extreme and unceasing dangers. If this was the case some years since, what must be the case now? What must be the case now, when thousands and tens of thousands,

thousands, panting for lost liberty, and thirsting for revenge, have been poured from Africa into our Colonies with unequalled rapidity; and when they are distributed, as they now are, among multitudes of their countrymen, kindled by principles, and stimulated by encouragements to revolt, unknown to former times? The course of future events is inscrutable. But as far as we can foresee, there seem appearances sufficient to justify the belief, that the Divine indignation will not much longer endure the existence of the Slave Trade: and that what Great Britain does not by means of law, Providence will do by instruments of vengeance. I allude not to the disasters in the West Indies, which have abated the first impressions made in that quarter by the British arms; nor to an instance, in which the elements seem to have been commissioned to fight against our undertakings with unexampled violence. Heaven can punish by success, as severely as by the most calamitous disappointments. I refer to those established causes of desolation,



lation, which, according to the natural course of events must terminate, if the Slave Trade be continued, not merely in the ruin of our Colonies, but in their ruin under every circumstance of aggravated horror. The mine is charged: the train is laid: the torch is already applied: the explosion may not be immediate; but, if the fire be not intercepted, it is certain. Whatever shall prove the issue, either in Europe or across the Atlantic, of the present contest with France, it is impossible to conceive that the principles, which have been instilled by the French into the breasts of the Negroes, will ever be eradicated from *such* minds; or that there can be any prospect of their refraining from perpetual efforts to shake off their bondage, by every species of massacre and desolation, (and from the immense superiority (*n*) of their numbers

(*n*) In Mr. Edwards's History of the West Indies (4to. 1793), the number of negroes in the British West Indian colonies, is stated to be Four Hundred and Fifty Thousand. (Vol. ii. p. 34.) The number therefore at present cannot be much, if at all, less than half a million: indeed it very probably is greater.

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numbers no force of the whites can long resist their attempts,) unless they shall be treated in a way in which they never will  
nor

The Historian to whom I have referred, furnishes an additional example of the inconsistencies into which those persons necessarily fall, who plead for the continuance of the Slave Trade, and at the same time attend, in a certain degree, to the principles of justice. Thus, vol. ii. p. 34, he speaks of the "sad prospect of Four Hundred and Fifty Thousand reasonable beings (in the English islands only), in a state of barbarity and slavery; of whom—" I will not say the major part, but—great numbers assuredly have been torn from their native country, and dearest connections, by means which no good mind can reflect upon but with sentiments of disgust, commiseration, and sorrow." In a subsequent part of his work also, after enumerating certain means, by which he admits that the Slave Trade is supplied (in which enumeration however he lays little, if any stress, on some most flagitious means of supplying it, which are perfectly notorious, and fully authenticated), he says, "By these means, and the commutation of death into slavery, for crimes real and pretended, are the nations of Europe supplied: and it cannot surely be a question among a humane and enlightened people, concerning the unlawfulness of a traffic thus supported." Vol. ii. p. 105, 106. Yet he proceeds almost immediately to object to the Abolition of the Slave Trade on the part of Great Britain; contending for the deliberate continuance of a traffic thus radically and confessedly unjust, and grounding his arguments

nor can be treated while the Slave Trade subsists; and unless the accession of newly imported Africans be totally precluded. May the repentance of Great Britain be speedy and effectual! May those who are personally interested in the fate of the West India Islands cease blindly to oppose the only measure, which affords a probable chance of preserving their property, their connections, and their relatives, from destruction! And may every man, who feels himself staggered by the assertion, that a season of public embarrassment is an unfit time for the adoption of so great a measure, ask himself these two questions; Whether any time can be a proper time to *continue* a practice radically barbarous, unjust, and unchristian? And whether if there be any time really more proper than another for the performance of an act of indispensable

ments on assertions and reasonings, which, I presume, will not appear to have real foundation, in point of fact, to many persons, who have studied, with an impartial mind, the documents respecting the Slave Trade, which have been laid before the public.

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